



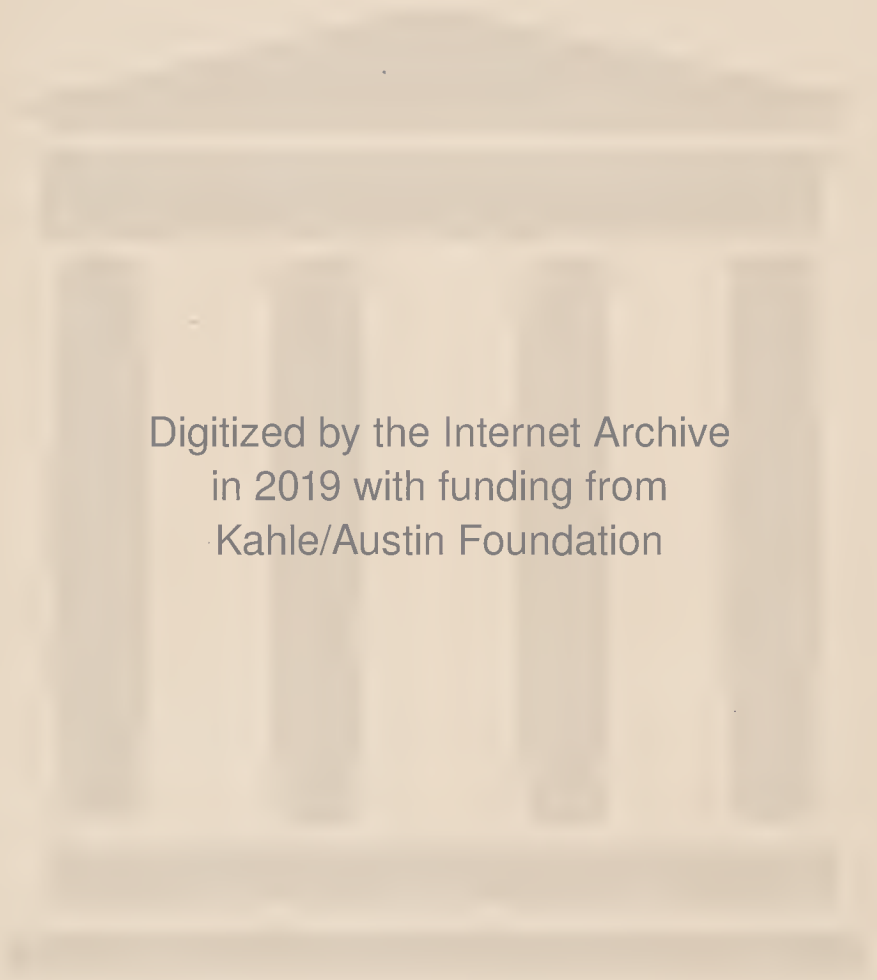
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VOL. I.

A.D. 1205-1648.

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VOL. I.

A.D. 1205-1648



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INTRODUCTION

'THERE was,' says Nicolas,¹ 'for two or three centuries after the Conquest, a formidable naval force, which was independent of both Governments [of England and France], and which, when not hired as auxiliaries by one of the belligerent Powers in time of war, acted as their own interests dictated. Acknowledging no authority but the chief whom they elected, and restrained by no national or moral law, they inspired terror wherever they came, and obtained the general name of pirates.' Before the Conquest, Saxons, Danes, and Norsemen had been dominant at sea, and their power was founded on the negation of law. The remarkable change (p. 99) in the meaning of the word 'pirate,' and in the associations connected with it in different ages, is not without significance. The early eighteenth-century pirates of the type of Captain Kidd were the historical successors of Morgan, Raleigh, and a swarm of unnamed 'rovers' who worked mostly in the Mediterranean during the previous century, and these latter were but following the example set them by most of the great seamen of the Elizabethan era. The advent of the line-of-battle ship and powerful national navies after a time put an end to the grosser sort of piracy ;

¹ i, 241.

but the habits of seamen are slow to change, and centuries of lawlessness upon the sea made the recognition of a law of war for the sea the more difficult. Nor was the lawlessness peculiar to seamen ; a sovereign who was largely dependent upon them for a navy and transports was not unwilling to wink at or encourage, even in times of nominal peace, private enterprise at sea which might give him an advantage over a neighbour with whom he might shortly be at war.

In many of our earliest documents the Cinque Ports are prominent. That of 1299 (p. 50), in which the Barons address Edward I in language which is unusual as between subjects and their sovereign, seems to justify Sir Harris Nicolas' description of the naval position of the Ports. The threat to embark in their ships with their wives and children and seek their fortunes upon the sea can scarcely have been intended to be taken seriously, but the Portsmen knew that they were indispensable, and that their remonstrance would be listened to. The tenderness with which they were treated is shewn by the curious order made, no doubt at their instance, as to the average contribution to be made by shipowners in case of jettison (p. 50, *note*). The peculiar association of the Cinque Ports, as well as their geographical position, put them in a position of easy supremacy in the English maritime world, although each of them was equalled or surpassed by more than one of the English seaports outside their organization. When Admirals and an Admiralty Court first appear in the records, the Warden of the Ports was the Admiral, and in all probability his court was the first tribunal in which a law of the sea, as distinguished from the common law of England,

was recognised and administered. The early history of prize law is inseparable from that of the Cinque Ports.

The right of the crown to ships and goods captured, whether by royal or private ships, from an enemy in open war seems to have been recognised from the earliest time of which any record remains; some of our earliest documents are grants by the King of captured ships and cargoes. Except by such a grant, made either before or after the capture, the private captor could rightly take nothing by his capture. Whether the claim of the Portsmen, mentioned above, had any foundation in fact or practice is not known; it does not appear what answer was made to it, and it was not repeated; moreover, the Norman ships then claimed were not the ships of enemies. In the thirteenth century no Admiralty Court existed, and questions of legal or illegal capture at sea were tried before the King in council (p. 12). In 1276 and again in 1341 the King was suing in his courts of common law for the proceeds of prizes (pp. 8, 69), and when the captures were made by private ships it is evident that the crown often failed to touch them. Before the end of the thirteenth century the supply of war material was being stopped by arrest or capture of the carrying ship (p. 21); sometimes neutrals were politely requested not to do so (p. 64). Whether friends' goods in an enemy's ship shared the fate of the ship, is not clear; probably in most cases they did; but sometimes restitution of the goods was ordered by the King (p. 42). Where there was no order to the contrary, enemy goods in a friend's ship condemned the ship (p. 66).

The earliest mention of letters of marque or reprisal that has been found is of the year 1293

(p. 19); but the practice of issuing them is probably of earlier date, and was not confined to the sea. A capture made before war was declared was deemed wrongful as early as 1297 (p. 44); this is one of the earliest indications that all captures, even from an enemy, were not lawful.

The curious agreement with Flanders, also of 1297, touching the conduct of ships at sea and a national flag, is noticeable as containing almost, if not quite, the first mention of an Admiral (p. 46); soon after this date the word is constantly met with in the records.

Condemnation of a friend's ship for carrying enemy goods was soon found, for political reasons, to be inexpedient; and in 1346 we find an order of the King in council, not only to restore the ship, but to pay freight upon the enemy goods on board her (p. 75); similar orders were made in 1375 and 1378 (pp. 102, 106). In 1353 by a treaty made between England and Portugal it was agreed that goods of either party captured in an enemy's ship should be restored (p. 80); and four years after this one of Edward's Admirals had to decide a question which had arisen as to the interpretation of this treaty (p. 81). The Portuguese were dissatisfied with his decision and appealed to Edward III, who confirmed his Admiral's decision. This document is noticeable as being the first in which judicial proceedings before an Admiral are mentioned. It must not be inferred from this that a High Court of Admiralty existed in 1357. No such court existed for more than half a century after that date; and the proceedings in question were probably nothing more than a summary decision of the Admiral of the fleet or district within whose command the capture was made. The goods in dispute,

originally Portuguese-owned, were in the possession of a French ship, which had seized them, and subsequently was captured by an English ship. Edward and his Admiral held that they were good prize to the English captor. A few years before, in 1353, it had been held by the council that goods which had not been in the possession of the pirate, from whom they were recaptured, for a day and a night must 'by the maritime law' be restored to their original owners.

In 1354 was passed a statute, 27 Ed. III, st. 2, c. 13, by which it was provided that foreign merchants, who had been spoiled of their goods at sea, should have restitution of their goods upon proof, by marks or other evidence, that they were theirs, without having to sue at common law. Though this statute refers to capture by pirates and not to capture in war, the express provision that an action at common law shall not be necessary, and the frequent references to the 'maritime law' about this period are noticeable. The distinction between the prize law of the Admiralty and the common law of the King's courts was beginning to be recognised, but piracy and the maritime law are for some time to come more heard of in the records than prize law and the Admiralty Court. In this connexion the document of 1361 (p. 88) is important. A commission of oyer and terminer for the trial of a case of piracy in the King's courts, according to the common law, had issued (p. 84); shortly afterwards it was recalled, and a new commission issued directing that the trial should be by the maritime law. In both commissions Sir Robert Herle, who had recently been appointed Admiral of all the King's fleets, was one of the commissioners. After this date the trial of robbery and

murder at sea in the King's courts of common law either ceased altogether or became very rare. In 1374 there was a commission to the Warden of the Ports, the Chief Justice, and others to try a case of piracy by the common and the maritime law (p. 99).

The first order dealing with convoy is of the year 1372 (p. 89). Some of the King's ships accompanied the wine fleet on its outward voyage and home ; and the private ships were doubtless all more or less armed. The customs duty of 2s. per ton on wines safely landed in England was appropriated to the convoying ships, less any profits they might make, either by captures from the enemy, or by bringing home wine themselves. Little is known of these voyages or how the system worked ; no mention of it has been found during the fifteenth century, but three documents of the following century, dated in 1542, 1576, and 1590 (pp. 152, 205, 261), shew that particular attention was given to the safety of the trade ; probably these fleets always had some sort of organisation, either amongst themselves for mutual support and defence, or under the supervision of the Lord Admiral and the crown. The elaborate provisions of the sixteenth century indicate that something of the same sort probably existed from the commencement of the trade. The importance and extent of that trade is illustrated by a very full account¹ of the wines brought to London between 1318 and 1323 ; in one year 8005 tuns were landed, almost all carried in English ships.

Before the end of the reign of Edward III it had become evident that the procedure of the common law was inadequate, either to restore

¹ K.R. Customs, $\frac{69}{9}$.

to its owners property wrongfully captured at sea, or to punish the crime of piracy. The statute of 1353, and the revocation of the commission of 1361, are two amongst other indications of the inefficiency of the common law. The reign of Richard II is marked by petitions against encroachment by the Admirals upon the jurisdiction of the King's courts. In 1390 and 1392 two statutes, 13 Ric. II, c. 5, and 15 Ric. II, c. 3, were passed, restraining and defining the jurisdiction of the Admirals. The contest between the Admiralty and common law courts was mainly a lawyers' quarrel, which lasted for centuries, and is hardly yet ended. The subject of prize law never formed any part of the matter in dispute, and is not mentioned either in the petitions or the statutes of Richard's reign; but it is not improbable that the attempt to set up a new tribunal to determine the legality of captures made at sea was one of the reasons for the unpopularity of the Admirals' Courts. Until the beginning of the fifteenth century no High Court of Admiralty existed; the Admirals' Courts of the previous century were the local courts of the Admirals of the North, South, or West. In these, which were sometimes held in remote towns, great irregularities were committed, leading to interminable appeals and expense. Before the passing of the statutes of Richard II the jurisdiction of the Admirals was quite undefined, and all sorts of matters with which they had nothing to do came before them.¹ The scandals connected with these local courts led to their suppression, and at the end of the fourteenth or beginning of the fifteenth

¹ See the records of two cases tried in the Court of the Admiral of the West in 1389 and 1390 at Lostwithiel; *Selden Society*, vol. vi.

century a Lord High Admiral and a High Court of Admiralty were instituted. The Black Book of the Admiralty was compiled about this period for the use of practitioners in the new tribunal, which was intended to rank with the ancient courts of the common law ; maritime law, the law of the sea, was to be its sphere. Here, if anywhere, we might expect to find instructions or regulations or orders relating to captures at sea, prize, and piracy ; there is little in the Black Book that touches any of these subjects. Nor did the Court of Admiralty itself remain anything more than a project for more than a century after it is first heard of. Very few traces of its existence are to be found in the records of the fifteenth century ; some commissions appointing delegates to hear appeals from its decisions are all that remain, and these indicate that prize cases seldom came before it. Its earliest records, and those of a fragmentary and rather trivial character, do not begin until Henry VIII had been on the throne for ten years.

But although the High Court of Admiralty was scarcely recognised as a prize tribunal until the following century, the fifteenth century produced some treaties, proclamations, and other documents, which shew that the need of such tribunal was being felt (see pp. 115-118). The French wars of Henry V add nothing to this collection ; and during the War of the Roses there was little fighting at sea. The sale of the Royal Navy of Henry VI, and the attempts made, more than once, to farm out its duties to a body of private shipowners, are alone sufficient evidence that the century was not one in which we could expect to find much progress made in the growth of a law of the sea. Most of the documents of

this period which relate to prize are in print elsewhere ; a few which have not been printed are given here. The commission of 1404 to Henry Paye (p. 112) recalls the well-known rover. One feature of the beginning of the century is the number of letters of marque recorded (pp. 111-121) ; during the previous century they are hardly mentioned. Towards the end of the century efforts were made to deal with piracy ; in 1484 a proclamation (p. 136) was issued by Richard III, and in 1490 another (p. 145) by Henry VII ; these were enforced by requiring the seaports to give security for the good behaviour of their own ships. In a treaty with France of 1498 (Rymer XII, 690) there is a provision to this effect. The only document of the century here printed referring to the Lord Admiral as the judge of prize shews also that arbitrators had to be brought in to decide it for him (p. 124) ; it is dated in 1413. In 1453 an Act (31 Hen. VI, c. 4) empowered the Chancellor to redress cases of spoil.

The first document of Henry VIII, and the last of the previous reign, both relate to piracy. In 1511 John Hopton was appointed to command a squadron to clear the seas of pirates (p. 146). In 1509, and again in 1518, treaties with France contain provisions relating to the same subject ; and the revival of the High Court of Admiralty, the records of which begin soon after the latter date, is probably connected with these treaties (Rymer XIII, 331, 649). In 1536 a new tribunal was created by statute (27 Hen. VIII, c. 4) for the trial of piracy as a crime ; shortly afterwards another Act (28 Hen. VIII, c. 15) was passed upon the same subject, and by virtue of these and subsequent statutes the criminal jurisdiction in

piracy has long ceased to have any connexion, except historically, with the Admiralty.

In 1536, during the war between France and the Emperor, Henry VIII issued a proclamation of neutrality (p. 149), the earliest that has been found. This war raised a question as to the jurisdiction of the Admiralty Court of England to try a case of capture made by one of the belligerents; the captor was an English ship commissioned by the King of France. The case is obscure, and no judgment has been found; the pleadings and a few papers are amongst the court records of the date, but are not here reproduced. The records of the court are meagre throughout Henry's reign; they do not begin until some years after the end of the war of 1512-3, and the war of 1545 is scarcely mentioned. A bill of sale of some Breton prisoners, in substance probably an assignment of their prospective ransom money (p. 154), an opinion of civil lawyers as to a recapture (p. 158), and a letter relating to granting a safe-conduct, are amongst the few documents of this reign which have been gathered from the records of the revived High Court of Admiralty.

At the beginning of the reign of Edward VI privateers were licensed to issue, but the proclamation authorising them has not been found; security for their good behaviour was taken (p. 161). A print of such a proclamation, probably the earliest in existence, is amongst the Admiralty Court records of Philip and Mary's reign (p. 162). It was issued during the war of 1557 with France. Of the same date is an Order in Council as to enemy goods in friends' ships (p. 165); the original of this is a short extract from the order which was used in a suit in which the legality of a capture was contested in the Admiralty Court. The suit

was of some importance, and the pleadings and other papers are of great length, but no sentence or final order has been found.

The first document of Elizabeth's reign (p. 168) is an order of 1560 to the Warden of the Cinque Ports to restore a prize captured under a letter of marque wrongly issued by him. It appears from this that the Warden had power to issue letters of marque; for the objection to its validity was, not that he had no power to issue it, but that it was contrary to treaty. The Admiralty of the Ports was still, and for long afterwards, distinct from that of the Lord Admiral. The same year, 1560, supplies a grant from Elizabeth to her Lord Admiral of one third of his prizes (p. 169). Fighting in the territorial waters of England by foreign belligerents, a burning question in the next century, is first discussed in the document of 1562 (p. 172). Some light is thrown upon Frobisher's early career by the bond of 1563 for the good behaviour of his ship, the *John Appliard* (or *Appleyard*) (p. 173); this, and other records of the Admiralty Court,¹ shew that long before he is known to historians as a discoverer, he served his time as a rover. Voyages of discovery, so frequent in this and the following century, were not always so innocent as would appear from the terms of the commissions under which they were made. Stuceley's commission of 1563 (p. 175) was not executed without fighting and violence. The duties of Vice-Admirals of the Coast² in connexion with privateers and prize are illustrated by the order of 1563 (p. 176). Legal opinions as to prize in 1568, and as to fighting in territorial waters, in the following year (pp. 179, 181), shew that

¹ See *Engl. Hist. Rev.* xxi, 538.

² See *Ibid.* xxii, 468 *seq.*

these matters were no longer dealt with entirely by the executive. Seizure of Portuguese goods in England, to recompense the Winters for losses suffered by them, was authorised by the issue to them of the letters of reprisal of 1569 (p. 184).

The long series of bonds for the good behaviour of privateers begins with Elizabeth's reign, though the practice of taking them is earlier; Frobisher's of 1563 (p. 173), and one of John Hawkins, of 1571 (p. 190), shew their form. This series, one of the most complete amongst the Admiralty Court records, extends to the close of the Napoleonic wars.

After the commission of 1511 to John Hopton against pirates no similar commission has been found until 1572. In that year the Lord Admiral was empowered to clear the seas of pirates (p. 191), and he issued a commission to William Holstock to capture them, and another was issued to Henry Palmer in 1576 (p. 210). At this time Englishmen were fighting at sea under the flags of one or other of the contending parties in France; others were helping the Dutch against Philip, and Philip had hopes of enlisting English ships on his side. This state of things, naturally, led to difficulties, and these commissions to capture pirates were the result of diplomatic pressure from foreign Powers. They were intended to be construed liberally, and Holstock's and Palmer's duties had, perhaps, more connexion with the rights and duties of neutrals and belligerents, contraband, and what in later times would have been called international law, than with piracy. In 1575 was issued the first proclamation against serving foreign princes (p. 202); and in the following year Holstock was instructed to arrest any Englishmen doing so without a licence (p. 212). In 1577 a licence to

capture pirates was substituted for a letter of assistance to Sir W. Morgan, who was sailing upon a voyage of discovery (p. 219); and in 1579 the commission to Sir H. Gilbert to plant a colony empowers him to establish an exclusive trade (p. 222); this implied authority to exclude interlopers by force, and such interlopers would probably have been deemed pirates. In later times commissions to capture pirates were freely issued to trading companies and others, and probably covered a good deal of irregular fighting at sea. Warrants for these are given below (pp. 385, 387). They were usually under the Seal of the Lord Admiral, who claimed the power to issue them under the terms of his patent (p. 224). Pirate goods were, it must be remembered, a source of revenue to the Lord Admiral and the Vice-Admirals, the spoil being shared between them. Sir Walter Raleigh's bond, as Vice-Admiral of Cornwall, to account for pirate goods arrested (p. 235), is the common form of bond taken from all Vice-Admirals. Although the ships sent out by Elizabeth in 1572 and 1576 against pirates probably operated against all ships, English and foreign, which were engaged in trade or fighting that was forbidden or was politically objectionable to her, there is no doubt that they were intended to clear the seas of those who were pirates in the ordinary sense. Many of her own subjects were such, and some of the Vice-Admirals 'sought, rather to make the best benefit of their places, than to repress the piracies.'¹ But piracy was becoming an intolerable nuisance, involving her in constant disputes with neighbouring Powers, and she seems to have made genuine attempts to suppress it. There is a list of pirates hanged

¹ Add. MSS. 36767, f. 29.

between 1561 and 1568; the hanging of their remains on prominent headlands seems to have been the practice some time before this.¹

In 1575, before Elizabeth had openly sided with the Netherlands against Spain, traders to Antwerp were required to enter into bonds (p. 200) not to carry to that town victuals or contraband goods. In 1583, after the treaty of 1577, she used her navy to exact the repayment of her subsidy to the Netherlands by seizure of their ships (p. 231).

The instructions for privateers, of the year 1585 (p. 236), having already been printed by the Navy Records Society,² are not reproduced here. They are the precedent for similar instructions which, down to the close of the Napoleonic period, were issued at the commencement of every war. Examples of the letters of reprisal, warrants, security for good behaviour, and other subsidiary documents, by which the privateering system was worked, are given below (pp. 237, 241-251). Open war with Spain was not yet declared, and proof of loss was required before letters of reprisal were issued; but the practice was loose, security to prove loss being sometimes accepted as proof of loss (p. 249), and the Lord Admiral assumed power to dispense with proof, when he thought fit (p. 281). In this and other directions he exercised a controlling influence over the Admiralty Court, in both its judicial and executive functions. In 1585, when war with Spain could no longer be disguised, we should have expected to find a proclamation for general reprisals, similar to that of 1557 (p. 162); none appears to have issued, every available ship being probably

¹ *Adm. Ct. Exemph.* 2, Nos. 49, 50.

² Vol. xi, 36.

already at work. The only new instruction in prize matters which followed upon the Armada year was the order of 1589 (p. 252) requiring all prizes to be brought in for adjudication. It is singular that this was not included in the instructions of 1585; it is not there, nor has any earlier order to the same effect been found. Formal condemnation of prizes by sentence of the Admiralty Court certainly was not the practice before 1589; before that date such sentences are scarcely to be found, after it they are common.

In the contest between the Catholics and Protestants in France the latter were assisted by Elizabeth, and she authorised her Lord Admiral to issue commissions to capture Leaguer ships (pp. 252, 273). Of such captures the French King received one fifth, and the Lord Admiral, doubtless, took his tenth. Sentences condemning these prizes were communicated to the French ambassador, who gave his assent to condemnation (pp. 267, 282), after receiving his King's fifth. The arm of the Admiralty Court, however, was not long enough to reach all of these prizes; some were taken to Ireland or elsewhere, and no part of these reached either the French King or the Lord Admiral (p. 260). Ships captured by French, as well as English, captors were dealt with in the English Admiralty (p. 267). There is evidence that the captures were not always Leaguer ships, and that the system led to abuse (p. 293).

Prior to 1588 the Hanse towns and the Hollanders, the latter although they were at war with Spain, were carrying on with the common enemy a considerable trade in contraband and other goods, which Elizabeth protested against and tried in vain to stop. After 1588 more vigorous measures were taken. A list of contraband

goods was drawn up, and after warning given to neutrals and Hollanders, many of their ships carrying such goods to Spain were seized and condemned as prize (pp. 291, 306), and trade in other goods between Holland and Spain was allowed by Elizabeth only to a limited extent (p. 262).¹ These measures raised violent opposition; the visiting of ships at sea to search for contraband was resisted by force, and conflicts such as that between Cumberland, in the *Garland*, and the *Black Bull* (p. 276) were frequent.

The consortship agreement of 1591 (p. 272) between Lord Thomas Howard and John Watts, the well-known London merchant and owner of privateers, is the only document of the kind that has been found, though many such must have been penned in Elizabeth's reign. The reservation of jewels in the *Bark Bonde* by the Queen for her own use (p. 280) is characteristic.

[The dependence of the Admiralty Court upon the crown, the Lord Admiral, the council, and the executive generally, is illustrated by such orders as those of 1593 and 1599 (pp. 281, 301) directing the condemnation of a prize captured without letter of marque. Although the Court was at this time rapidly growing in importance, and acquiring a monopoly in all prize cases, it was far from being an independent tribunal, and Cæsar had reason to remonstrate against the interference of the Council with his judicial functions.

Examples of the commissions issued from time to time by Elizabeth to her naval commanders during the Spanish war are given, mostly from the Patent Rolls; Drake's last commission of 1595 (p. 284), and Cumberland's commission

¹ Other documents bearing upon these disputes are referred to, *Engl. Hist. Rev.* xxiv, 691-695.

(p. 278) to command the *Malice Scourge* shew their form. Why some of these commissions were under the Great Seal, and others under the Admiralty seal, is not clear. Privateers' commissions continued to issue from the Admiralty Court after 1588 to the end of the war, apparently under authority of the Order in Council of 1585. The orders of 1595 to recall a letter of marque and to put in suit a bond for a ship's good behaviour (p. 287) shew that irregularities committed by privateers were not disregarded. But, if privateers were kept under some restraint in home waters, they had a freer hand in the Mediterranean, where Turkish and Algerine ships were looked on as fair game, and Christian prizes could be sold afloat or in the Barbary ports (p. 320). Venetian and Tuscan ships especially suffered from English rovers, and in 1599 a proclamation (p. 300) was issued warning Englishmen against molesting them. The law as to enemy goods in friends' ships was by no means clear, and before the end of the reign the Admiralty Court had to deal with several difficult cases in which ships of the Mediterranean Powers were involved ; two of the sentences are given below (pp. 322, 327) ; a claim for freight upon contraband in a friends' ship was not allowed (p. 317). One of the last documents of the reign, a licence for a Dutch ship to trade with South America (p. 332), shews that the restraint which Elizabeth put upon the trade with Spain of her allies was enforced and acquiesced in.

The accession of James I, followed by his making peace with Spain, raised a new class of cases for the decision of the Admiralty Court. The war between Spain and the Netherlands continued, and much of the fighting at sea was in

the Channel and around the coasts of England. In one of the first years of the reign Dover Bay was the scene of a conflict between the belligerents, and elsewhere people ashore were killed and houses damaged by their shot. In 1605 the Admiralty Court passed a sentence for restitution of a Dutch ship captured in English waters (p. 351), and another against a Dutch captor in the following year (p. 362). These conflicts caused James to issue a proclamation of neutrality (p. 353), which is remarkable as containing some provisions touching the rights and duties of neutrals and belligerents in territorial waters of the neutral which are, in substance, those in force at the present day. But, although the right of a neutral to prevent belligerents from fighting in her harbours was properly asserted by James, and has since become a commonplace of international law, the doctrine of territorial water, a three-mile or cannon-shot limit, was as yet unknown. The claim to the sovereignty of the sea, the right of the flag, was in the air, and in the next reign confused the issue altogether. James' proclamation, wholly reasonable as it was, was perhaps in advance of the times. The questions raised for the decision of the Admiralty Court were novel, and it is not surprising that neither of the belligerents was satisfied. The King of Spain objected to the proceedings and judgments of the Admiralty Court (p. 360) upon these and other questions; but the quarrel seems really to have been a personal one between his ambassador and the judge (Dr. Dun, who had succeeded Cæsar), rather than a complaint against the partiality of the Court. From the other side comes the complaint that Spanish ships were unduly favoured in a Scottish harbour (p. 402). Disputes as to England's

rights and duties as a neutral did not cease with the truce of 1609, and the wars of Charles I and the Commonwealth raised similar questions in another form.

Under the terms of his patent the Lord Admiral was entitled to pirate goods, and Nottingham seems to have construed this as entitling him to goods which were in the hands of pirates, as against the real owners who had been robbed. In 1607 he consented to the restoration to its French owners of money in the hands of pirates (p. 371), but is careful to state that he does so out of grace. In 1613 the consent of the Dutch ambassador was obtained to the condemnation of a Dutch pink as a pirate (p. 394). Licences to private traders and trading corporations to capture pirates were frequent during James' reign and afterwards (pp. 377, 380, 385, 387), and were, no doubt, construed liberally by the grantees. A commission granted in 1609 under the Great Seal to the commander of some of the East India Company's ships, although in terms pacific, indicates that the voyage was not expected to terminate without fighting (p. 375). The Lord Admiral, and indirectly the crown, were interested in captures made by the Company's ships (pp. 376, 386). Notwithstanding the cautious language of Middleton's commission of 1609, no security seems to have been required from the Company for the good behaviour of its ships; but in 1617, when Raleigh sailed on his ill-fated expedition to America, security was required and taken (p. 395).

Consortships, or voyages 'de conserve,' entered into by private traders, by which they agreed to sail in company for mutual protection against pirates and enemies, are frequently alluded to in the records, but little is known of their details,

or how they were enforced. The wine fleet, probably from the earliest times, sailed in company, and we have seen that as late as the end of the sixteenth century, the government took an active part in the measures which were taken for the safety of the fleet. But these consortships were not confined to the wine fleets, and probably were common in all trades. In 1617 the Admiralty Court was resorted to, to redress the breach of such a consortship, in consequence of which one of the fleet was captured by pirates; sentence passed against the offending ship for full damages (p. 397).

Towards the end of James' reign there are indications of coming war: an Order of Council of 1622 authorising Sir R. Huddleston to sail with volunteers to assist Spain (p. 401); and an order of 1624 from Buckingham (now Lord High Admiral), to Sir Henry Marten, the judge of the Admiralty Court, to take proof of losses suffered by Englishmen at the hands of Spaniards (p. 408). This was followed by a series of orders, similar to those of Elizabeth's reign, regulating the issue of letters of marque and reprisal, some of which, together with the accompanying documents, are given below (pp. 410-437). The practice of requiring proof of losses before the issue of letters of reprisal, as stated above, was continued in Elizabeth's reign after 1588, when open war was raging. It was renewed in 1624, and the reason for its renewal then is not apparent. The fact seems to be that the distinction of later days between letters of marque and letters of reprisal was not yet recognised. Privateers' commissions are called in the records letters of marque, letters of marque or reprisal, and letters of reprisal, indiscriminately; and it is not until after the treaty

of peace made with Spain in 1630 that the distinction seems to have been appreciated. The instructions of 1637 dwell upon Charles' intention to maintain peace, notwithstanding the issue of letters of reprisal (p. 500) ; though here also the commission under which they were issued calls them ' letters of marque or reprisal ' (p. 499).

The wars of 1624-1630 brought much work to the Admiralty Court, and its records for those years consist mainly of prize cases. The general effect of the decisions of the Court, proclamations, and diplomatic correspondence, relating to prize matters and prize law is summarized below (p. 404).

The commission of 1629 to the Earl of Warwick (p. 457) recalls those of Elizabethan times ; negotiations for the peace with Spain, which was made in the following year, were in progress at the date of its issue. The motive for the order of the same year (p. 454) to take proceedings against those who had spoiled ships of Algiers was fear of reprisals from that quarter, and the order that no hostilities were to be committed within the Straits (p. 456) was of the same character. Whether Turkish and Algerine vessels were to be treated as pirates or public ships of a sovereign power was at this time an open question. The correspondence with Hamburg as to the treatment which its ships having contraband as well as free goods on board were to receive illustrates the tenderness with which the Hanse towns were treated in this as they had been in the previous century. It raises also a question as to the propriety of the crown varying its proclamations by diplomatic correspondence, a question which is referred to in the next century in the case of some Prussian ships. The sentence restoring

the French *Marie* (p. 474), although she had contraband on board and resisted search, shews that the same law was not always administrated to neutrals, and that the King's will had been made known to the judge. The grant of Admiralty rights to the Providence Island Company (p. 470) is probably the earliest instance of such a grant to a colony, but an Admiral of New England had already been created. Salvage on a recapture (p. 477) was awarded by the Court in 1631; in later times it has been dealt with by statute.

Whether 'Turks' were to be treated as pirates or a sovereign power was long an open question. The 'Reglement' for the Narrow Seas of 1634 (p. 484) is probably connected with the ship-money fleet then in preparation, and the sentence of the same year (p. 490) condemning a defendant in damages and costs for an illegal capture shews that the Admiralty Court, as well as Charles' fleet, was instrumental in keeping order in the Narrow Seas. But any progress in this direction was counteracted by the promiscuous issue of letters of reprisal (or *marque*) against French and Spanish ships in 1634 and 1636 (pp. 492-511), which were evidently abused, as in the case of the *Golden Wolf* (p. 511), and also by the practice of employing the King's ships to redress private losses (pp. 508, 517). The case about Spanish bullion in the *Victory* (p. 496) is obscure; it is inserted because it raised the question as to public ships being exempt from visitation and search. The ravages of the Dunkirkers continued, the ship-money fleets notwithstanding; and there is reason to think that English seamen served in some of them. For the order to Pennington in 1640 (p. 513) to arrest Englishmen found serving in foreign ships there was an Elizabethan

precedent ; we do not hear of conflicts arising from its enforcement, but the claim to the salute and sovereignty of the Narrow Seas was scarcely more likely to provoke them than was this order.

In 1640 an interesting case was brought before the Admiralty Court relating to the purchase of a Dunkirker's prize brought into an English port without having been adjudicated upon by the Spanish Admiralty. The sale was declared void (p. 514).

The concluding documents of the reign are commissions to command ships issued by the Royalist and Parliamentary governments (pp. 531-536).

The advance made in the four centuries covered by the documents here collected towards the recognition of a common law and common usages to regulate war and fighting at sea is small, and its progress intermittent. The materials for tracing it are scanty, and the necessary omission of most of those already in print adds to the fragmentary character of this collection. Those taken from the records of the Admiralty Court have not hitherto received the recognition they deserve. From the close of the sixteenth century to the time of Lord Stowell the sentences of the Court exist in hundreds, and are one of the most valuable sources of international and prize law, as administered in England ; but, owing to the fact that they have never been printed, scarcely any of them have been cited in the courts or referred to by text-writers. An Admiralty Court was in existence for two centuries before the date of the first sentence printed in this volume, and it may be asked why, during that period, it left little or no trace upon the history and evolution of prize law. The fact seems to be that, for some

reason that does not clearly appear, it was a failure as a tribunal in prize. That it was intended to deal with prize the Black Book and the case of 1357 (p. 81) clearly indicate; but the commissions appointing judges delegate, to hear appeals from its judgements, which are almost the only records of its existence prior to the reign of Henry VIII, shew that most of the cases that came before it were civil, and not prize, cases. Throughout this period its business was probably insignificant, but between 1520, or thereabouts, when its records begin, and 1648, the limit of the present volume, the importance of the Court grew rapidly, and at the close of that period it was recognised as the sole tribunal of first instance for the trial of the legality of captures made at sea. This, together with the erection by Henry VIII of an efficient tribunal for the trial and punishment of piracy as a crime, are the most noteworthy landmarks in the history of our subject during the period comprised in the present volume.

Three points may here be noted. Sir Julius Cæsar always spelt his name with a diphthong, and Nottingham his with one 't.' The records of the Admiralty Court are in process of rearrangement, and some of them may have been altered since these pages were in type; I have had great difficulty in keeping pace with the changes that have been made even whilst they were passing through the press. The references to Rymer are to the edition of 1729.

R. G. M.



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DOCUMENTS

RELATING TO

LAW AND CUSTOM OF THE SEA

1205. Grant to the captor of half his prizes.
Patent Rolls, 6 John, m. 3.

The King to all to whom these presents shall come, Greeting. Know ye that we have granted to the crews of the galleys, which Thomas of Galway has sent to us, one half of the gains which they may make in captures from our enemies ; and we will, besides, recompense them for their service, according to the advice of G——, the son of Peter, our Justiciary, and the said Thomas, and other our lieges, in such sort that they shall be well satisfied. Witness, &c.¹

¹ So in 1242 Robert Elyas, master of the King's ship, La Brette, had to account to the King for half his prizes (*Vascon Rolls*, 26 Hen. III, m. 4 ; cf. *ibid.* 27 Hen. III, m. 16). In 1254 William Sanbahac of Bayonne, fitting out six ships for the King, stipulates that he shall have half his spoil by land or sea, together with all consumable goods (*Chancery Miscell.* 27, File 1, No. 11). As late as 1512, Henry VIII and his Admiral, Sir Edward Howard, shared prizes in much the same way (*Close Rolls*, 3 Hen. VIII, m. 6, printed in Rymer xiii, 328). In the Edwards' time the share of the owner of a hired ship was one fourth (Oppenheim, *Administration of the Navy*, p. 9). By the document known as *De officio Admirallitatis*, Black Book of the Admiralty, i, 21 (Rolls Ser.), which Nicolas thinks was compiled before 1351, the

Rex omnibus, etc. Sciatis quod concessimus galiotis galias,¹ quas Thomas de Galweie nobis fecit venire, medietatem lucri sui quod facient super inimicos nostros, et insuper eis servitium suum bene² reddemus secundum quod ipsi nobis servient juxta consilium G——, filii Petri, Justiciarii nostri, et predicti Thome, et aliorum fidelium nostrorum, ita quod bene erunt pacati. Teste me ipso apud Nottingham, xij die marcii.

1216. Writ to bailiffs of ports to arrest and restore to her owner a ship that had been piratically captured.—*Patent Rolls*, 16 John, m. 10.

The King to the bailiffs of the ports of England, Wales, and Ireland, Greeting. We command

King took one-fourth, the shipowner one-fourth, and the master and crew one-half of prizes taken under the King's wages, the Admiral taking two mariners' shares, if present at the capture, and one if absent. Ships not present at the capture, but in sight, so as to intimidate the enemy, appear to have shared: if not in the King's wages, captors took the whole of their prizes, except a share reserved for the Admiral. Captors were allowed pillage of all things on deck—a custom which long survived. By the laws of Oleron, of earlier date, the shipowner took one-half, the master and crew the other half, the master taking a double share, and the Admiral 'his share' (*op. cit.* i, 144). By the *Consolato del Mare*, a Catalan code in use in the fourteenth century, the owner or charterer took one-third, the merchant one-third, and the master and crew one-third (*op. cit.* iii, 603). The *Inquisition of Queenborough* (1375) gives two-thirds to the shipowner, and one-third to the crew (*op. cit.* i, 135). These last two codes applied to merchant ships. In Henry VI's reign the masters and crews of hired ships took one-half, the owners one-third, and the captains and under-captains one-sixth (Oppenheim, *Administration of the Navy*, p. 26). See also below, pp. 55, 66–69, 169, 241.

¹ *Sic*, qy. *galearum*.

² Not *inde*, as in Record Commission edition.

you that you cause diligent enquiry to be made throughout your bailiwicks touching a ship belonging to the bearers of these presents, namely Eudo and Silvius, poor men of Brittany, who were in our fleet during our last voyage to England from Poitou; and if you find her, cause her without delay to be delivered to them, together with the goods found in her, on reasonable proof that the ship and goods are theirs. And take those into custody, and let us know who they are, in whose hands the ship and goods have been found. Witness, &c.

Rex ballivis portuum maris Anglie, Wallie, et Hibernie, Salutem. Mandamus vobis quod diligenter queri faciatis per ballias vestras navem quamdam que furtive sublata fuit presentium latoribus, videlicet Eudone et Silvero, pauperibus hominibus Britannie in floto nostro, cum venissemus nunc ultimo in Angliam a Pictavia; et si inventa fuerit, eis illam sine dilatione habere faciatis, cum catallis suis in ea inventis, monstrato ab eis rationabiliter quod navis et catalla illa sua sint. Illos autem in quorum manibus hec inventa fuerint capiatis, et nobis scire faciatis qui illi fuerint. Teste me ipso apud Novum Templum London, xxiiij die Novembris.

1216. Writ directing that the value of one half of a prize be delivered to the King, and that the captors be compelled to account to the owner for the other half.—*Patent Rolls*, 1 Hen. III, m. 16.

The King to G[oeffrey] de Nevill, [our] Chamberlain, Greeting. We straitly command that, by the faith that you owe and the love you bear us, you, retaining for our use one half of the 529*l.* which you and Robert Wudecok and the other galley men captured from Gossewine de

Roullours, without making any delay or difficulty hand over in full to him, Gossewine, the other half¹; and that you distraint upon the galley men to restore to him that half part. And if it should happen that any dispute arise touching the amount—that is to say, whether it is 400*l.* or 529*l.* that was captured from him, you are to make diligent enquiry thereon, and [if the sum was 529*l.*], you are to hand to Gossewine one half of that sum. In witness, &c.

A like order is written to Robert Wudecok, and the rest of the galley men, and to the keepers of the ships at Scarborough, that, as they care for their persons and their goods, after keeping one half [for the King], the other half they hand over to him, Gossewine. Witness, &c.

And the same order is written to the afore-said G[eoffrey] de Nevill and the burgesses of Scarborough touching 22*l.* 10*s.* for John Ruffus of Ypres, a half being kept for the King. Witness, &c.

Rex G[alfredo] de Nevill camerario, Salutem. Mandamus vobis firmiter precipientes quod in fide qua nobis tenemini sicut nos diligitis, retenta ad opus nostrum medietate quingentarum et xxix librarum quas vos et Robertus Wudecok et ceteri galiote cepistis de Gossewino de Roulers, sine dilacione et difficultate aliqua aliam medietatem eidem Gossewino integre habere faciatis, et distringatis eosdem galiotos quod illam medietatem ei reddant. Et si forte contencio oriatur de numero pecunie, utrum scilicet ab eo capte fuerint quadringente libre vel quingente et xxix^{vem} libre, illud diligenter inquiratis et medietatem quingentarum et xxix^{vem} librarum eidem Goswino habere faciatis.

¹ Why the captors are directed to restore their share of the prize does not appear.

Et in hujus rei testimonium, etc. vobis mittimus. Teste eodem comite apud Gloucestre iij die Decembris anno regni nostri j. Per [eundem].

Eodem modo scribitur Roberto Wudecok et ceteris galiotis et aliis custodibus navium que sunt apud Scardeburg quod sicut corpora et omnia sua diligunt, retenta una medietate, aliam medietatem eidem G. habere faciant. Et in hujus, etc. Teste eodem, anno eodem.

Eodem modo scribitur predicto G[alfredo] de Nevill et burgensibus de Scardeburg de xxij libris et x solidis pro Johanne Ruffo de Ipra, retenta medietate ad opus domini regis. Teste eodem, anno eodem.

1217. The King sends two barons of the Cinque Ports to arrest his share of prizes, and to deliver to the Portsmen their share.—*Patent Rolls*, 1 Hen. III, m. 4.¹

The King sends greeting to the barons of the Cinque Ports. We give you sincere thanks for the good service you have faithfully and bravely oftentimes done us. And, because we desire that all your rights and all your liberties be preserved to you without infringement, we send to you our trusty Geoffrey Tutquor and Thomas de Wilardeby, your co-barons, to see that all of you, who have lately spoiled our enemies at sea, have what they ought to have, and to arrest so much of the spoil as ought of right to belong to us. Witness, &c.

Rex baronibus Quinque Portuum, Salutem. Grates vobis referimus multiplices de bonis serviciis que nobis fideliter sepius et strenue fecistis. Et, quia volumus

¹ Pat. 47 Ed. III, pt. 2, m. 23, is a similar order of the year 1373, addressed to a serjeant-at-arms. It is printed in Rymer vii, 29.

6 ENEMIES' GOODS—A PIRATE HANGED

quod omnia jura et omnes libertates vestre vobis integre conserventur, mittimus ad vos fideles nostros Galfridum Tutquor et Tomam de Wilardeby, conbarones vestros, ad videndum quod omnes vestri, qui inimicos nostros nuper in mari spoliaverunt, habeant inde quod habere debent, et ad arestandum de lucro illo id quod ad nos de jure spectat habendum. Et quia sigillum, etc. Teste comite apud Sondwiz xxv die Augusti.

1225. Enemies' wines seized by the King. *Patent Rolls*, 9 Hen. III, m. 7.

The King to all his bailiffs, Greeting. Know ye that we have seized the wines of Auniz, that belonged to men of Rochelle, and were in the ship of Robert de Salern', of Rye, and have put them into our castle of Dover, because the men of Rochelle, when we seized them, were in hostility to us, and were adhering to the King of France. And this we declare by these our letters. In witness, &c.

Rex omnibus ballivis suis, Salutem. Sciatis quod vina de Auniz, que fuerunt hominum de Rupella, et fuerunt in navi Roberti de Salern, de Ria, cepimus, et ea posuimus in castro nostro Dov', eo quod homines de Rupella, quando vina illa cepimus, tunc contra nos fuerunt, et regi Francorum adheserunt. Et hoc per literas nostras protestamur. Teste ut supra.

1228. A pirate hanged.¹ — *Close Rolls*, 12 Hen. III, m. 13.

An order was given to the bailiffs of York as to the ship which they caused to be arrested because William de Briggeho, who was afterwards

¹ This is almost the only record which the present writer has found of hanging for piracy before the sixteenth century.

hanged for consorting with the malefactors who robbed her off Sandwich, was found on board her. The lord, the King, has ascertained by inquisition that the ship, together with the chattels on board her, belonged to William Belemund, of Grimsby, and he commanded the bailiffs that they should cause her to be delivered [to William Belemund] without delay. Witness, &c.

Mandatum est ballivis Eboraci quod navem quam arestari fecerunt eo quod Willelmus de Briggeho, suspensus postea pro consensu malefactorum navis depredate ante Sandwicum, in ea inventus fuit ; et quam dominus rex inquisivit esse Willelmi Belemund' de Grimesb', cum catallis in eadem navi contentis, que sunt ejusdem Willelmi, ei sine dilatione deliberari faciant. Teste ut supra.

1264. Commission to Henry de Bracton to try a case of fighting at sea between the men of Lyme and the men of Dartmouth.
Patent Rolls, 48 Hen. III, pt. 1, m. 4 d.

Whereas the King has been given to understand that in a late fight at sea between the men of Lyme and those of Dartmouth blows and wounds and other trespasses and enormities have been given and committed against the King's peace, whereby grievous disturbance may arise in those parts, unless a remedy speedily be provided. The King, desiring that justice be done touching the premises, has appointed Henry de Bracton to enquire by the oath, &c. [of men] of Dorsetshire, and also of Devonshire, who they are who have committed the aforesaid trespasses, and to do justice thereon according to the law and custom of the King's realm. And the said Henry

is commanded, &c. [*in common form*]. Witness the King at Canterbury on the 16th day of September.

Cum Rex, sicut intellexit in quodam conflictu inter homines de Lim' et homines de Dertem' nuper in mari habito verberaciones vulneraciones et alie transgressiones enormes contra pacem Regis nuper hincinde perpetrare fuerunt, per quod gravis turbacio in partibus illis posset suscitari, nisi remedium cum celeritate ad hoc apponeretur; Rex, in premissis justiciam fieri volens, assignavit Henricum de Bratton ad inquirendum per sacramentum etc. tam de comitatu Dorsetie quam de comitatu Devonie per quos etc. qui transgressiones predictas fecerunt, et ad justiciam inde faciendam secundum legem et consuetudinem regni Regis. Et mandatum est eidem Henrico quod ad certos, etc., futuri etc., salvis Regis amerciamentis et aliis etc. Et mandatum est vicecomitibus predictis etc. Teste Rege apud Cantuar' xvj die Septembris.

1276. Action relating to the king's half of goods captured from the enemy; he having granted the other half to the captor.—*Coram Rege Rolls* (No. 22), 4 Ed. I, Easter, vol. 12.

John of Byrilande complains of Richard of Cottesford, that he, Richard, on Monday next after the feast of [SS.] Peter and Paul the apostles in the year aforesaid came to his ship at Holkham, and took and carried away 80 'chalones'¹ and one bale of pepper, to the value of 36*l.*, whereby he says that he was damnified and suffers loss to the amount of 100*l.*, and sues thereon. And Richard

¹ Perhaps bed coverings. See tit. shalloon, *Drapers' Dictionary*, and tit. chalon, *New English Dictionary*.

comes and denies the violence and injury, &c., and says that he received at the hands of men of the place for the King's use 13 'chalones' and one pocket of pepper, for the share belonging to the said King of Flemings' goods captured off the sea coast, whereof the lord, the King, [had] granted to the men of the place who should capture them one half, [as of] all other goods [so captured]. And he says that, as bailiff of the lord, the King, he received the aforesaid 'chalones' and pepper for the King's use, and caused the same to be carried to Norwich Castle, and there delivered them to William Giffard, his master, then sheriff of the county. And of this he calls for warranty the aforesaid William, his master, who is present, and joins with the aforesaid Richard in his answer. And he, William, says that he delivered the aforesaid 'chalones' to one Gerard, a companion of John's, under the King's writ, for John's use. And that this is so he is ready to bring [such] proofs as the court may require, &c. &c.

Johannes de Byrilande queritur de Ricardo de Cottesford quod idem Ricardus die Lune proximo post festum apostolorum Petri et Pauli, anno predicto, venit ad navem suam apud Holkham, et quater viginti 'chalones,' et unam balam piperis, ad valentiam xxxvj librarum, cepit et asportavit. Unde dicit quod deterioratus est et dampnum habet ad valentiam c librarum, et inde producit sectam. Et Ricardus venit et defendit vim et injuriam quas etc. Et dicit quod ipse recepit per liberationem hominum de patria, ad opus domini Regis, xiiij chalones, et unum pokettum piperis, tanquam partem spectantem ad dictum Regem de bonis Flandrensium captis per costeram maris, et unde dominus Rex concessit hominibus patrie, qui ea capere possent, medietatem omnium bonorum ; et dicit quod ipse, tanquam ballivus

domini Regis, predictos chalones et piperem recepit ad opus domini Regis, et ea asportari fecit ad castellum Norwycence, et ea liberavit Willelmo Giffard, domino suo, et tunc vicecomiti ejusdem comitatus. Et de hiis vocat ad warrantum predictum Willelmum, dominum suum, qui presens est, et respondet simul cum predicto Ricardo ; Et dicit quod ipse, Willelmus, liberavit predictos chalones cuidam Gerardo, socio ipsius Johannis, per breve domini Regis, ad opus ipsius Johannis, et quod ita sit paratus est verificare, sicut curia consideraverit. . . . [*Further pleadings ; no judgment.*]

1289. Commission of oyer et terminer to the Warden of the Cinque Ports to try piracy, with special directions as to procedure.—*Patent Rolls*, 19 Ed. I, m. 17.

The King to his well-beloved and trusty Stephen de Pencestre, Warden of the Cinque Ports, Greeting. Whereas certain trespasses have, as we hear, been committed upon the liege men of the lord the King of France by our men of the aforesaid Ports of our realm, and whereas it has never been our purpose that evil or hurt should be done to any of the said king's men by men of ours, but [rather] that they should everywhere within our power be protected and defended, and the King of France has asked of us [that it should be so] ; [Therefore] we have appointed you to hear and determine the complaints of the said men [of France as to] the trespasses done to them, in the following manner, that is to say : that the complainant do affirm by a letter under the seal of the town to which he belongs that he is a liege man of the King of France, and that he belongs to that town, and that he neither has nor holds anything in the land

of the Count of Flanders ; to the end that, when the complainants bring such testimony as they can vouch thereon under the common seal of the town to which they belong, then, after calling before you those of the Ports aforesaid of whom the men of the King of France desire to complain, and hearing what both sides say touching the matters which the men of the King of France put forward, if they show reasonable proof that the goods were theirs, and that they were taken from them by our men, you cause due restitution to be made of the goods, in accordance with the law and custom of our realm. And so we command you that you act in the premises in manner aforesaid. In witness, &c.

Rex dilecto et fideli suo Stephano de Penecestre, custodi Quinque Portuum, Salutem. Cum quedam transgressionibus facte fuerint propriis hominibus domini Regis Francie per homines nostros de Portibus terre nostre, ut accepimus, et idem dominus Rex nos rogaverit pro hominibus suis predictis, ac intentionis nostre nunquam extiterit quod malum vel damnum fieret per aliquem de nostris propriis hominibus dicti Regis, set quod ipsi protegerentur et defenderentur ubique infra potestatem nostram ; Assignavimus vos ad querelas eorundem hominum et transgressionibus eis factas audiendum et terminandum in forma subscripta, videlicet, quod querens per literam sub sigillo ville de qua fuerit sigillatam affirmet quod proprius homo ejusdem Regis sit, et de villa illa, et quod nichil habeat nec aliquod teneat in comitatu Flandrie ; ita quod quando querentes hujusmodi testimonium habuerunt super hoc per commune sigillum ville de qua fuerunt et unde se advocaverunt, tunc vocatis coram vobis illis de portibus predictis de quibus proprii homines Regis predicti se conqueri voluerint, auditisque hincinde eorum rationibus de hiis que iidem proprii homines predicti Regis rationabiliter ostendere potuerint coram vobis et docere sua esse et ipsis per homines nostros

predictos ablata fuisse, debitam restitutionem fieri faciatis secundum legem et consuetudinem regni nostri. Et ideo vobis mandamus quod premissa faciatis in forma predicta. In cujus, etc. Teste Rege apud la Bruere iij die Marcii.

1293. Process of a suit, heard before the King and council, between Gas' Arnaud and others, merchants of Spain and Portugal, and William de Sant and Andreas de Vinak, touching ships and goods captured by the latter. Herbert de Newerk and others having been assigned to try the facts, judgment was given for the defendants, except as to certain Portuguese goods, as to which judgment was reserved. — *Chancery Miscellanea*, Bundle 13, File 1, No. 16.

The record and process of a suit before master Henry de Newerk, formerly dean of York, master Raymund de Ferer, formerly dean of St. Soverinus, lord John de Berwick, master John de Lacy, master John de Kadamo, lords Elias de Copenna, Raymund de Campana, formerly seneschal of Agenois, and John de Havering, formerly Seneschal of Gascony, who were appointed by the lord the King and his council to hear some suits of certain merchants of Spain, Portugal, and Placentia, in the parliament of the lord the King held at Canterbury after Easter in the twenty-first year [of his reign] touching assaults made on them, as they say, by William de Sant.

Gaspar Arnaud, merchant of Spain, and other merchants of Portugal and Placentia, came before the aforesaid master Henry, and the

other [arbitrators aforesaid], complaining of William de Sant and Andrew Barrante, burgesses of Bayonne, that whilst they, being liege merchants [of the King, were lately] passing over the sea with their ships laden with divers merchandises, the aforesaid William de Sant and Andrew Barrante, and many others of Bayonne, came and made an assault upon them, and forcibly captured a ship of theirs, and spoiled her, and caused her to be taken, together with the goods and chattels to the value of 3000*l.* that were in her, and belonged to them, to the port of Portsmouth; and they prayed that the said goods should be restored to them, and for damages, &c.

Moreover the said merchants say that, whereas they had hired a certain English ship in a harbour of Brittany to take goods and merchandise of theirs to Flanders, and the ship was by bad weather driven to Portsmouth harbour, the said William and Andrew caused her to be arrested by the sheriff of Southampton; and [they say that] the said goods and merchandise are [now] in the hands of the aforesaid William; wherefore they pray that the same goods may be restored to them.

And the aforesaid William and Andrew, being there present, say that, whereas proclamation had, by order of the King of Castile, been made through the whole of Spain that whenever [any] burgesses of Bayonne came in ships, or by land, to Spanish territory, or elsewhere to any place on land or sea within the obedience of the King of Castile, they should have their heads cut off, and their goods seized, &c., in consequence of this, immense slaughter has on many occasions been made amongst the mariners of Bayonne,

and goods of theirs have been seized and spoiled to the amount of 20,000 marks, [which has been] lost to the burgesses of Bayonne, &c.

And John de Vinak, burgess of Bayonne, being there in person, complained that, whereas a certain ship of his had come to land at Lisbon, with divers goods and merchandise of his [on board], she was straightway seized by those of Spain and Portugal, and all on board slain, and the goods that were in her, being of the value of 3000 marks, seized and spoiled. Wherefore, say the aforesaid William and Andrew, whilst they were passing the seas in their ships in chase of two Spanish ships, in which were laden goods of Spaniards and Portuguese and men of Placentia, [all] enemies of the lord the King of England and of his allies, the men of Bayonne, they captured one of the aforesaid ships, as being enemies of the lord the King and his burgesses of Bayonne, and took her with the goods on board to Portsmouth. And they say further that another Spanish ship, which for many days they chased at sea, put into a port of Brittany near St. Matthew's, and the Spaniards who were in her caused all the goods on board to be unladen, and forthwith freighted an English ship for 50*l.* sterling to take them to Flanders. And the aforesaid William and Andrew and their fellows chased the English ship, and after she had been driven by bad weather to shelter at Portsmouth, the sheriff of Southampton, at the suit of him, William, caused her to be arrested, and afterwards she was by the King's writ delivered, together with the goods on board, to him. And they say that they are not bound to answer the aforesaid merchants, because it was quite lawful for them to [capture and] make spoil of their

goods, since they were open enemies of the lord the King, and of the burgesses of Bayonne aforesaid. Wherefore they pray judgment.

But the merchants of Placentia pray that judgment against them, and in favour of the aforesaid William and his fellows, may be entered by consent; and this was granted, upon their making fine to him, William, in 100 marks, to recompense him for his goods [spoiled].

As for the Portuguese [merchants], they said that they never were enemies of the lord the King nor of the burgesses of Bayonne; and this they were ready to prove upon the evidence of the King of Portugal and other worthies of Spain, and in any other way the court should require. So it was ordered that all the goods of the said Portuguese and others should be delivered to Orlandinus de Podio and his fellows, merchants of the company of the Ricardi of Lucca, to be kept by them in safety until the lord the King should decide what order to make thereon.

And as for the Spanish merchants, inasmuch as it was notorious that many losses have been incurred in consequence of the proclamation which the King of Castile put forth as aforesaid, the terms of which were proved by a notary's writing, which master Raymund de Ferrer saw and read in the presence of the Seneschal of Gascony at the time, and of other good men, when they were last in the city of Bayonne, it was ordered by the lord the King and his council that the aforesaid William and his fellows should keep the aforesaid goods that belonged to the Spanish merchants, as prize captured from his open enemies. And directions were given to the said William by the council that he should give to the aforesaid John de Vinak a share of the aforesaid prize,

in respect of the losses suffered by him in the port of Lisbon at the hands of the Spaniards. And he, William, forthwith paid the said John de Vinak 250*l.* sterling in satisfaction of his losses, in the presence of the aforesaid arbitrators.

Recordum et processus loquele habite coram magistro Henrico de Nework, tunc Decano Ebor', magistro Remundo de Ferer, tunc Decano Sancti Soverini, domino Johanne de Berewek, magistro Johanne de Lacy, magistro Johanne de Kadamo, dominis Elya de Copenna, Remundo de Campana, tunc senescallo Agenn', et Johanne de Havering, tunc senescallo Vasconie, assignatis per dominum Regem et ejus consilium ad audiendum quasdam querelas quorundam mercatorum Ispanorum, Portugalensium, et Plesentinensium, de quibusdam transgressionibus eisdem mercatoribus per Willelmum de Sant illatis, ut dicebant, in parlamento domini Regis habito apud Cantuariam post Pascham anno xxj.

Gas' Arnaud, mercator Hispanus, et alii mercatores Portugalenses et Plesentinenses, venerunt coram prefatis magistro Henrico et aliis, conquerentes de Willelmo de Sant et Andrea Barrante burgensibus Baion', quod cum ipsi tanquam fideles mercatores transissent mare cum navibus diversis mercandis suis carcatis, venerunt predicti Willelmus de Sant et Andreas Barrante et multi alii de Baiona cum navibus, et eisdem mercatoribus insultum dederunt, et unam navem eorum vi et armis ceperunt et depredaverunt, et eandem navem cum bonis et catallis eorundem mercatorum in ipsa navi existentibus ad valentiam MMM librarum duci fecerunt ad portum Portsmouth'; et petierunt dicta bona eis restitui una cum dampnis, etc.

Preterea dicunt iidem mercatores quod cum affretassent quandam navem de Anglia in quodam portu Britannie ad ducendum bona et mercandisas suas ad partes Flandrie, que quidem navis per maris intempestatem applicuit in predicto portu Portesmuth', dicti Willelmus et Andreas predictam navem per vicecomitem Suth' arrestari fecerunt; que bona et mercandise sunt

in manibus predicti Willelmi. Unde petunt eadem bona sibi restitui, etc.

Et predicti Willelmus et Andreas presentes dicunt quod cum quedam proclamacio facta esset per totam Ispaniam per preceptum Regis Castelle, quod ubicunque burgenses Baion' applicarent seu venirent in partibus Ispanie, vel alibi per terram vel per mare sub potestate ipsius Regis Castelle, statim decapitarentur et bona eorum caperentur, etc. Unde maxima strages facta fuit per diversas vices de nautis Baion', et bona eorum capta et depredata, ad dampnum burgensium Baione xx^m marcarum, etc.

Et Johannes de Vinak, burgensis Baione, presens querebatur quod, cum quedam navis sua applicuisset apud Luxibonam, cum diversis bonis et mercandis suis, statim per Ispanos et Portugalenses capta fuit, et omnes in eadem inventi occisi, et bona in ipsa existentia ad valenciam MMM marcarum capta et depredata. Unde dicunt predicti Willelmus et Andreas quod cum transirent per mare cum navibus suis persequentes duas naves Ispanas, in quibus bona Ispanorum et Portugalensium et Plesentinensium, inimicorum domini Regis Anglie et hominum suorum Baione invicem confederatorum, fuerunt carcata, unam de predictis navibus vi et armis ceperunt, tanquam super inimicos domini Regis et burgensium Baion' predictorum, et ipsam navem cum bonis in ea inventis duxerunt usque Portesmuth'. Preterea dicunt quod quedam alia navis Ispana, quam persequabantur super mare per multos dies, applicuit ad quendam portum Britannie, in costera Sancti Matthei, et Ispani, qui in eadem navi extiterunt, eandem discarcari fecerunt de omnibus bonis in ea existentibus, et statim affretaverunt quandam navem Anglicanam pro lⁱⁱ sterlingorum ad ducendum eadem bona in Flandriam. Quam quidem navem predicti Willelmus et socii sui persequabantur, et cum eadem navis Angliam applicuisset, in costera Portesmuth', per tempestatem maris, ad sectam ipsius Willelmi vicecomes Suthamptonie eandem navem arrestari fecit, quousque deliberata fuit, cum bonis existentibus in eadem, eidem Willelmo per breve domini Regis :

Et dicunt non tenentur respondere mercatoribus predictis, quia bene licuit eis lucrari super inimicos domini Regis manifestos et burgensium Baione predictorum. Unde petunt iudicium.

Mercatores vero Plasentie petunt habere concordiam cum predictis Willelmo et sociis suis, et optinerunt, et finem fecerunt eidem Willelmo pro C marcis pro bonis suis recuperandis.

Portugalenses autem dixerunt, quod nunquam fuerunt inimici domini Regis nec burgensium Baion', et hoc parati fuerunt verificare per testimonium Regis Portugalensis et aliorum fide dignorum de confinis Ispanie, et in alio modo quo curia consideraverit. Et ideo ordinatum fuit quod omnia bona dictorum Portugalencium et aliorum liberentur Orlandino de Podio et sociis suis, mercatoribus de societate Ricardorum de Lucca, custodienda quousque dominus Rex aliud super hoc duxerit ordinandum.

Quantum ad mercatores Ispanos, quod notorium erat quod per proclamacionem quam dominus Rex Castelle fieri fecit, ut premissum est, multa dampna sunt subsecuta in forma predicta, et etiam littera dicte proclamacionis testificata fuit per cartam tabellionis, quam quidem cartam magister Ramundus de Ferrer vidit et legit, in presencia tunc Senescalli Vasconie, et aliorum bonorum virorum ibidem presentium, quando ultimo fuerant invicem in civitate Baione, ordinatum fuit per dominum Regem et ejus consilium, quod predictus Willelmus et socii sui retinerent bona predicta que fuerunt mercatorum Ispanorum, tanquam lucrum sibi acquisitum super inimicos suos manifestos. Et preceptum fuit eidem Willelmo, ex parte consilii, quod impartiret de lucro predicto Johanni de Vinak pro dampnis sibi factis per Ispanos in portu predicto Luxibone, et idem Willelmus statim satisfecit predicto Johanni de Vinak de CCL^{li}. sterlingorum pro eisdem dampnis, presentibus auditoribus predictis.¹

¹ In 1293 and 1294 commissioners were appointed to deal with affrays between English and Flemish, Portuguese and Bayonnese seamen ; Rymer ii, 607, 632, 667.

1293. Stay of letters of marque against men of Castile.—*Patent Rolls*, 21 Ed. I, m. 7 (Sched. 2).

The King to his seneschal, and all other the provosts, bailiffs, officials, and justices of our duchy of Aquitaine, Greeting. Whereas, by reason of differences having arisen between the people of the illustrious King of Castile and our citizens of Bayonne, we have thought fit to grant certain letters of marque or reprisal against the subjects of the said King; We command and enjoin that you wholly desist [therefrom], and cause our subjects to refrain from executing such letters of marque or reprisal, and that you carefully keep in safety whatsoever [goods] may have been captured by way of marque or reprisal, until you have further order from us, or from our said seneschal. Witness, &c.

Rex senescallo suo et omnibus aliis propositis, ballivis, et omnibus officialibus et justiciariis nostri ducati Aquitanie, Salutem. Cum, propter discordias inter gentes illustris Regis Castelle et cives nostros Bionenses exortas, aliquas literas marquandi seu gagiandi¹ subditos dicti Regis duxerimus concedendas; vobis mandamus precipientes quatinus a marca seu gagatione hujusmodi totaliter desistatis, et desisti per nostros subditos faciatis; Custodientes seu custodiri facientes diligenter, si qua gagiata seu marquata fuerint, quousque a nobis, vel dicto senescallo nostro, aliud habueritis in mandatis. Teste ut supra.

¹ Gaignart = booty; see tit. Gagerius, Ducange. Cf. Pat. 30 Ed. I, m. 33, 'nolentes quod . . . occasione cujusdam aresti quod vocatur le mark . . . graventur.'

1293. Warning to the men of the Cinque Ports not to molest those of Normandy.
Patent Rolls, 21 Ed. I, m. 8.

The King to all his faithful and liege men of the commonalty of the Cinque Ports, and of Bayonne, Yarmouth, Ireland, and elsewhere in his realms, to whom [these presents shall come], Greeting. Whereas we have understood that you are now in readiness to go, in the way of trade, to Gascony and Poitou; and [whereas] we have already forbidden you, on pain of heavy penalty, to harm or molest those of the realm of the King of France; We [now] command you, at the risk of your persons and property and all that you can forfeit to us, and straitly charge you, that in this voyage, from henceforth, you make no attack either upon the Normans or any others of the realm of the said King of France; and that you neither harm, molest, nor in any way damage, any of them; and that in all ways you bear yourselves so wisely and discreetly, as well in your merchandising as in landing anywhere, that no ill or harm happen to you. We also command you, that you cause this to be proclaimed and enforced through the whole fleet, and wherever else you shall find seafaring people of our realm. In witness, &c.

Rex omnibus fidelibus et legalibus suis de communitate Quinque Portuum nostrorum Bayone, Yernemuth, Hibernie, et aliunde de potestate sua, ad quos etc., Salutem. Cum intelleximus vos paratos jam esse eundi ad negotiandum versus partes Vasconie et Pictavie, et vobis sub gravi forisfactura prius inhibuerimus ne malum vel molestiam gentibus de potestate Regis Francie faciatis; Vobis mandamus, sub pena corporum et bonorum, ac omnium illorum que nobis incurrere potestis, firmiter

inhibentes ne in hoc viagio, nec exnunc in antea, super Normannos, vel alium quemcunque qui sit de potestate dicti Regis Francie, eatis nec alicui ipsorum malum, molestiam, seu dampnum aliquod faciatis; set viis omnibus eatis ita sapienter et secure, tam in faciendo mercandisas vestras quam ubicunque applicando, quod malum vel dampnum vobis nequeat evenire. Vobis etiam mandamus quod ista per totam flotam, et alibi ubi gentes maritimas de potestate nostra inveneritis, proclamari et teneri faciatis. In cujus etc. Teste Rege apud Cantuar' vj die Julii.

1293. Arrest of ships of Germany and Frisia, which had been driven by weather into Newcastle, Scarborough, and Ravenser, and were suspected of having on board provisions and war material for the King's enemies. — *Exchequer Miscellanea*, Bundle 2, File 1.¹

¹ Some of the membranes in this case, eleven in number, are of considerable length, giving the names and ports of the ships, and the names and nationalities of the masters and merchants, together with full inventories of the cargoes. The ships numbered nearly one hundred, and belonged to Riga, Stralsund, Rostock, Lubeck, Stavoren, Campen, and 'Ludingkirk.' The cargoes included pitch, tar, tallow, grease, oil, hides, skins of various animals, hemp, timber, boards (ship and wainscot), tiles, iron, copper, lances, bowstaves, armour for the merchants and crews, corn, peas, linen, canvas, fish (herring and stock-fish), wax, ashes, and other goods not easy to identify. Some of these were as follows:—

Strandelin was a fur of some kind (see *Exch. Books of Scotland*, i, 347 and *passim*). Popel, also a fur (see *New Engl. Dict.* sub tit.). Routhskyns, ruthware, or roweware, seem to be rough hides (see *New Engl. Dict.*); or perhaps whale skin, of which ropes were made (see *Navy Records*, 'Accounts and Inventories,' p. 38 note (1), as to russwale). Skins de selynys or selyvis or selyns are probably seal skins.

Edward, by the grace of God, King of England, Lord of Ireland, and Duke of Aquitaine, to all his bailiffs and lieges to whom these presents shall come, Greeting. Know ye that we have assigned our well-beloved and trusty John de Means to arrest certain ships of Germany, which of late came to land in the parts of Ravenser, Scarborough, and Newcastle-upon-Tyne, laden with horses, boards, arms, and divers merchandises, which they were intending to carry to Flanders and elsewhere in the Kingdom of France, for the use of our enemies, and to [afterwards] dispose of the aforesaid goods and merchandise according to further directions given to him on our behalf. And therefore we command you that in all things touching the premises you be aiding, advising, counselling and assisting to the aforesaid John, according as he shall call upon you on our behalf, and as often as he shall request you to do so. In witness whereof we have made these our letters patent. Witness the venerable father, William, Bishop of Bath and Wells, our Treasurer, at Westminster, the 17th day of December in the 23rd year of our reign.

The Treasurer and Barons of the Exchequer of our lord the King, to the bailiffs of Ravenser, Greeting. We have received the order of the King in these words: Edward, by the grace of Selesmer, which occurs several times, is probably the same as unguentum de selk, in the text below, and may be seal fat or blubber. Buckefel may be deer skins, ostrit' hawks, augee or algee pipes, celdr' pans, mater madder. Blacwerk is unknown. A short example of one of the inventories is given in the text, p. 30. The last two membranes relate to another matter, apparently the arrest of English and foreign ships at Bristol for the King's fleet at Bristol.

God, King of England, &c., to our bailiffs of Ravenser, Greeting. We have been given to understand that many ships of Frisia and Germany, laden with horses, boards, armour, and divers other necessities, which they were intending to carry to Flanders and elsewhere in the realm of France, in aid of our enemies, have been driven by weather to your parts. Wherefore we command you that you cause all the goods in the aforesaid ships to be unloaded under the inspection of John de Basinges, the bearer of these presents, whom we are sending to you for this purpose; and that, after they are unloaded, you permit them to be sold to and distributed amongst the people of our realm by the merchants to whom they belong; but the ships you are to arrest, so that they cannot depart from thence, until you receive further orders from us in the matter. And you are distinctly and clearly to make known to our Treasurer and Barons of the Exchequer by letter and by [the word of] him, John, what you do in this matter. Witness the venerable father, the lord William, Bishop of Bath and Wells, at Westminster, the 13th day of November, in the 22nd year of our reign. And this order of our lord the King we have caused to be executed by the view of the aforesaid John de Basinges, fully and in all points, as appears by the following: [*Details of the ships and inventories of their cargoes follow.*]

To the most noble father in God, lord William, by the grace of God, Bishop of Bath and Wells, Treasurer of our lord the King, his humble and devoted lieges, the bailiffs of Newcastle-on-Tyne, if it please him, Greeting in all manner of reverence and honour. Know, lord, that touching the

order of our lord the King, which we lately received touching the goods and ships of Frisia and Germany, we have not been able, by search of ourselves and of John de Basinges, when he chose to come and be present, and by good inquisition of denizens and foreigners, made of the goods and merchandise in the aforesaid ships, to find anything else than [this that] we send you by way of return [to the writ] by the bearer of this letter. And we prayed John de Basinges that he should carry with him this return; and he tells us that he will not receive it, because the return was made by way of Schedule; and thereupon we urged him to put away the Indenture, and yet he would not receive it. Therefore we request your lordship that you please to deliver to us your will as to what we are to do with the aforesaid goods and ships, that we have arrested according to the direction of the writ, which we have accomplished according to your will; and this we are ready to do to the best of our power. May God preserve to us your life long in safety. [*Details follow of inquisitions taken at Newcastle, Scarborough, and Ravenser.*]

The arrest, view, and sequestration, made by John de Melsa, knight, at Scarborough on Sunday, the morrow of the Circumcision of our Lord, in the 23rd year of King Edward, of ships of the parts of Germany, that have put in there, according to letters patent of him, the lord the King, addressed to the said John thereon. On which day the same John found there twelve ships, all of them, except one, unloaded. And inquisition was made the same day before him, John, by Henry de Roston', Roger de Carett', Robert le Pa—, Alan de Carett', Robert Hamund,

Reginald le Silver, Robert de Norfolk, John de Henton, John de Picheford, Robert ad Crucem, Thomas Fulc, and William the son of Nicholas de Scard, as to what nation the men of the aforesaid ships, and what cities or towns the aforesaid ships, belonged to; and whether any merchant of Flanders, or any place in the obedience of the King of France, has or at any time has had part or property in the goods and merchandise found in the same ships; and to whom the same belonged on the day the [ships] put into [Scarborough]; and likewise as to treasure of gold or silver, and as to war material, if any such should be found [in the ships] at the time of their putting into [Scarborough] or afterwards; and whether any part of the aforesaid goods and merchandise had, after the first arrest placed upon them by the lord the King, been sold. And they, upon their oath, say: [*After giving details of the ships and their cargoes the document proceeds:*] Also they say that all the masters, mariners, and merchants, of the aforesaid ships are of the towns aforesaid, and of the dominion of the King of Germany, so far as they can ascertain. Also they say that no merchant of Flanders, or of any place of the power of the King of France, has or at any time has had part or property in the goods or merchandise aforesaid, so far as they can ascertain. Also they say that the aforesaid ships and all the goods in them belonged, on the day they came into harbour, to the masters and merchants aforesaid, who are of the obedience of the King of Germany. Also they say that no treasure of gold or silver was found, nor any armour, except only that some of the aforesaid mariners and merchants had armour to wear themselves, whilst others had none; and that no other

armour was found, either when the ships came into harbour or afterwards. Also they say that the aforesaid merchants sold some part of the aforesaid goods and merchandise to men of the realm of England, under authority of the King's writ, before the day on which the inquisition was held; and that the rest of the aforesaid goods still remain in the same town to be sold. In witness of which the aforesaid Henry and his associates aforesaid have set their seals to this inquisition. Given on the day and year aforesaid.

On Monday, the Feast of St. Nicholas, in the 23rd year of the reign of the lord the King, we received the command of the aforesaid lord the King in these words: [*Reciting the order of December 17, as above.*] Wherefore we command you to cause to be unloaded under the view of John de Basinges. [*As above, p. 23; but under date November 23, 23 Ed. III, and proceeding as follows:*] According to the tenor of the aforesaid command, we have caused to be unloaded from eleven ships of Frisia and Germany, which were driven by weather into our harbour, under the view of the aforesaid John de Basinges, who desired to be present, 20,060 boards, 99 barrels of pitch and tar, 281 casks of ashes, 52 lasts and 19 dickers of hides and skins of oxen, horses, goats, seals,¹ calves, and lambs, 23 lasts of white herring in barrels, 22 lasts of seal² blubber and oil, 45 barrels of butter, 18½ bundles of popel and strandelyn,³ 500 hare skins, 19 fardels of hemp, 2800 dried fish called stock-fish, 1 piece of wax,

¹ Selyns or selynīs (see note, p. 21 above).

² See *New English Dictionary* as to selk = seal.

³ Popel, strandelyn (see note, p. 21 above).

4 young goshawks,¹ 300 bowstaves. All these goods were unloaded on Saturday next after the Feast of St. Nicholas, in the year aforesaid, together with certain arms—namely, swords, lances, targets, iron breast-plates, bucklers, jackets, collars, and helmets, [all] for the use of the aforesaid merchants and mariners. And on the aforesaid day the aforesaid eleven ships were arrested, together with all their furniture. In witness of this the seals of the bailiffs of the aforesaid town have been affixed to this return.

Edwardus Dei gratia Rex Anglie, Dominus Hibernie, et Dux Aquitanie, omnibus ballivis et fidelibus suis ad quos presentes litere pervenerint, Salutem. Sciatis quod assignavimus dilectum et fidelem nostrum Johannem de Means² ad arestandum quasdam naves de Alemania, que nuper equis, bordis, armaturis, et aliis diversis mercimoniis, onerate ad partes de Ravensere, Scardeburgh, et Novi Castri super Tynam, applicuerunt, et que in Flandriam et alibi in regno Francie, in inimicorum nostrorum subsidium, se proposuerant transtulisse, et ad disponendum de bonis et mercimoniis predictis prout ei ex parte nostra plenius est injunctum. Et ideo vobis mandamus quod predicto Johanni in omnibus que ad premissa pertinent intendentes sitis et respondentes, consulentes, et auxiliantes, prout vobis scire faciat ex parte nostra, et quotiens per ipsum super hoc fueritis requisiti. In cujus testimonium has literas nostras fieri fecimus patentes. Teste venerabili patre, Willelmo, Bathoniensi et Wellensi Episcopo, Thesaurario nostro, apud Westmonasterium, xvij die Decembris, anno regni nostri xxiiij.

Thesaurarius et Barones de Scaccario domini Regis ballivis de Raveneser, Salutem. Mandatum domini Regis in hec verba recepimus. Edwardus, Dei gratia Rex

¹ Hostour = a sore or young hawk (see Wright).

² Or de Melsa.

Anglie, etc. ballivis suis de Ravenser, Salutem. Intelleximus quod multe naves de Frysia et Alemannia equis, bordis, armaturis, et aliis diversis mercimoniis, onerate, ad partes vestras per tempestatem fugate fuerunt, que in Flandryam et alibi in regno Francie in inimicorum nostrorum subsidium se proposuerunt transtulisse. Quare vobis mandamus quatinus per visum Johannis de Basinges, presentium portitoris, quem ad vos propter hoc destinamus, omnia in predictis navibus contenta exonerari faciatis, et ea, postquam exonerata fuerint, gentibus regni nostri per mercatores, quorum sunt, vendi et distrahi permittatis. Et naves illas, nihilominus, attachietis, ita quod inde non possint recedere quousque aliud a nobis super hoc habueritis in mandatis. Et quid super hoc feceritis Thesaurario et Baronibus nostris de Scaccario per vestras literas et per eundem Johannem distincte et aperte constare faciatis. Teste venerabili patre, domino Willelmo, Bathoniensi et Wellensi episcopo, apud Westmonasterium, xij die Novembris, anno regni nostri vicesimo secundo. Quod quidem mandatum domini Regis per visum predicti Johannis de Basinges in omnibus plenarie sumus executi prout patet in subscriptis : [*Details of the ships and their cargoes follow.*]

A tres noble Per en Deu Senyur W[illiam] par la grace de Deu Evesk de Bathon' et de Welles, Tresorer nostre Senyur le Roy, les soens umbles e devoz, si lui plest, les balyfs de Noef Chaustel sur Tyne, Saluz on tute manere de reverence e de honeurs. Sachez, Senyur, ke endrit du maundement nostre Senyur le Roi, ke nous receumes ne gerespuis, pur les biens e les nyefs de Frese et de Almayne aums par nostre serche e Jon de Basinges, present quant il plout venyr, e par bone enquete de geent denizans e forains prise de biens e marchandises en nyefs avaunt dites, ne pouns nule autre chose trouver ke nous ne vous envoyums en rettur per le porteur de cest lettre. E nus priames Jon de Basinges ke il portast ove lui cel retur. Et nous dyst ke il ne le receyveroit point, pur ceo ke le retour fu fete a la manere de dyvidend. E nous sur ceo lui tendimes de oster le endenture. E

enckor ne le volait il receyver. Dont nous requerouns a vostre dignete ke il vous plese maunder nous vos voluntez ceo ke nous froumz de biens avant dites, e de nyefs ke nous aums atachez surum¹ ceo ke le bref vote, le quel nous aums ensemblementes en tute vos voluntez, ke nous les sumes prest afer a nostre poer. Deu nous teyne vostre vie longment ensaunte. [*Details follow of the inquisitions taken at Newcastle, Scarborough, and Ravenser.*]

Arrestacio, visus, et sequestracio, facta per Johannem de Melsa apud Scardeburgh, Dominica in crastino Circumcisionis Domini, anno regni regis Edwardi vicesimo tercio, per literas patentes ejusdem domini Regis eidem Johanni inde confectas, de navibus de partibus Alemannie ibidem applicatis. Quo die idem Johannes invenit ibidem duodecim naves, et omnes exoneratas, excepta una. Et inquisicio facta eodem die coram ipso Johanne per Henricum de Roston', Rogerum le Carett', Robertum le Pa—, Alanum le Carett', Robertum Hamund, Reginaldum le Silver, Robertum de Norfolc, Johannem de Henton, Johannem le Picheford, Robertum ad crucem, Thomam Fulc, et Willelmum filium Nicholai de Scard, de qua nacione homines predictarum navium, et de quibus civitatibus aut villis predictæ naves sint, et de cujus potestate, et si aliquis mercator Flandrie, vel de aliquo loco de potestate Regis Francie, habet aut habuit ullo tempore partem vel proprietatem in bonis et mercimoniis in eisdem navibus inventis, et quibus bona et mercimonia predicta fuerunt, die qua applicuerunt. Et similiter de thesauro auri vel argenti, et de armaturis, si que fuerint inventa ad applicacionem vel post, et si quid de bonis et mercimoniis predictis, post primam arrestacionem per dominum Regem factam, fuerit alienatum. Qui dicunt super sacramentum suum quod. . . . [*Here follow details of thirty-two ships and their cargoes, and the document proceeds:*] Item dicunt quod omnes rectores, naute, et mercatores, predictarum navium sunt de villis

¹ Sic. Qy. sulun or survieu.

supradictis et de dominio regis Alemannie, sicut inquirere potuerunt. Dicunt etiam quod nullus mercator de Flandria, nec de aliquo loco de potestate regis Francie, partem vel proprietatem habet, vel habuit ullo tempore, in bonis vel mercimoniis supradictis, sicut per eos inquirei poterat. Item dicunt quod predictæ naves, et omnia bona in eis die applicationis, fuerunt rectorum et mercatorum predictorum de potestate et dominio regis Alemannie existentium. Item dicunt quod [de] thesauro auri vel argenti nihil inventum est, nec de armaturis aliquod inventum est, præter quod quidam nautarum et mercatorum predictorum habuerunt armaturam solummodo pro corporibus suis, et quidam non; nec aliquis alia armatura inventa fuit, neque ad applicationem, neque postmodum. Item dicunt quod predicti mercatores quamdam partem predictorum bonorum et mercimioniorum vendebant hominibus regni Anglie, per breve domini Regis, ante diem istius inquisitionis; et residuum bonorum predictorum adhuc in eadem villa restat vendendum. In cujus rei testimonium predictus Henricus et socii sui predicti inquisitioni sigilla sua apposuerunt. Datum die et anno supradictis.

Mandatum domini Regis in hec verba recepimus die Lune in festo Sancti Nicholai, anno regni predicti domini Regis xx^{mo} et tertio, in hec verba: [*Reciting the order of December 17, as above.*] Quare vobis mandamus quatenus per visum Johannis de Basinges. [*As above, p. 28, but under date November 23, 23 Ed. III, and proceeding as follows:*] Juxta tenorem mandati predicti exonerari fecimus de xj navibus de Frisya et Alemaniam, in portum nostrum per tempestatem fugatis, per visum predicti Johannis de Basinges, qui interesse voluit, xx^m lx bordas, iiij^{xx} xix barella de pice et terr', xiiij^{xx} j dolea cinerum, liij lesta xix dakres de coriis et pellibus bovinis equis caprinis selyn¹ vitulis et agnis, xxij lesta allecis albi in barellis, xxij lesta unguenti de selk' ¹ et de oleo, xlv barella de butyro, xvij tymbria et dimidium de popel et strandelyn, v^c pelles leporum, xix fardellos de lino,

¹ See note, p. 21 above.

mm¹ viij^{cc} pisces dueros, videlicet stokefys, j pecia cere, iiij hosturs sors,¹ ccc baculos ad arcus. Omnia ista bona exonerata fuerunt die Sabbati proximo post festum Sancti Nicholai, anno predicto, una cum armaturis quibusdam, videlicet, gladiis lanceis targeis platys ferri buckeler' aketon' colerett' bacinett' pro corporibus quorundam mercatorum et nautarum predictorum; et die supradicto attachiate fuerunt xj naves predictae cum atilio. In hujus rei testimonium sigilla ballivorum ville predictae huic retorno sunt appensa.

1294. Pardon to pirates, on condition of their serving the King at sea.—*Assize Rolls*, 843, m. 18; see also mm. 8, 17, 24.

In or shortly before 1294, Nicholas of Orford, Richard son of Eustach,² and other seamen of the *Rose* of Harwich, rose upon the merchants on board, who were returning from Flanders with bullion, slew them, and seized the bullion and goods on board, to the value of 6000*l*. They appear to have brought the *Rose* to Harwich, and there to have decamped with spoil; for in the same year juries of Suffolk made presentments of the piracy to the King's justices, but there is no record of any arrests having been made. Subsequently, Nicholas, and others of the pirates, were pardoned, upon condition that they should accompany the King to Gascony. The proceedings, it will be noticed, were in the King's Court; the Admiralty Court did not yet exist. Pardons to seamen of this sort are not uncommon in the Records.

Afterwards came the aforesaid Nicholas of Orford, and being asked how he would acquit himself of the death of the aforesaid merchants

¹ See note 1 above, p. 27.

² Eustach' 'clerici': qy. the monk.

slain in the aforesaid ship called the *Rose*, &c., and of the seizure and carrying off of the goods found in her, as above presented, says, that the lord the King has now pardoned him in the suit that belongs to him, the King, for breach of his peace, touching the aforesaid matter, by his charter, which he produces, to this effect : Edward, by the grace of God King of the English, lord of Ireland, and Duke of Aquitaine, to all his bailiffs and trusty men, to whom these present letters shall come, Greeting. Know ye that whereas We, moved by pity, in that so many and divers men of our kingdom so often incur loss of life and members, of whom some being arraigned, some indicted, and others appealed by approvers, for homicides, robberies, and other crimes, and divers misdemeanours committed against our peace, and some for trespasses of the forest ; and [whereas] these men are wandering over the country, doing, committing, and instigating, in divers ways, many evil [things], whereby some of them are imprisoned, and some are outlawed or have withdrawn [from England] ; [Now], to the intent that such evils may be avoided, and in the hope of the amendment of such evildoers, and for the peace of the people of our realm, and also at the request of the prelates, earls, barons, and others of our council, We, of our special grace, have granted that all such men, who wish to return to our peace, may come before us, or before our dear and trusty Roger Brabazon and William of Bereford, whom we have appointed for this purpose, or before one of them, in person or by their friends, and before us, or them, or one of them, in person or by their friends, find sufficient bail that they will forthwith set forth in our service to Gascony, and there remain at our

wages, so long as it shall please us, and afterwards return from thence to receive judgment in our court, if any shall wish to sue them for the homicides, robberies, and other crimes and misdemeanours, for which they are arraigned or appealed, or for which they are imprisoned, outlawed, or have fled the country ; and that they, being so bailed, and their bail being witnessed by the same Roger and William, or one of them, before our Chancellor, may have our letters patent pardoning them the suit of our peace, which belongs to us, touching such homicides, robberies, crimes, and misdemeanours, and also outlawry, if any [outlawry] shall have been declared in that behalf at our suit ; We, willing [to extend] our grace to Nicholas, the son of Robert of Orford, who has withdrawn himself on account of the death of Hugh of Winchester, John le Code, Richard of Dunstable, William Turges, and others, who were in a certain ship on the sea, and on account of a robbery committed in the same ship against our peace, whereon he was arraigned, he having found bail before the aforesaid Roger and William in form aforesaid, as by the same Roger and William is witnessed before our Chancellor, have pardoned the same Nicholas the suit of our peace, that belongs to us, touching the aforesaid death and robbery, and have granted to him our firm peace, provided he forthwith sets forth in our service to Gascony aforesaid, there to remain as is aforesaid ; and provided also that, when he shall return from thence, he stands to judgment in our court, if any shall wish to sue him for the death and robbery aforesaid. In witness whereof we have caused to be made our letters patent. Witness ourselves at Funtley this 25th day of July in the 22nd year of our reign.

Postea venit predictus Nicholaus de Orford, et quesitus qualiter se velit acquietare de morte predictorum mercatorum in navi predicta, que vocatur la Rose, interfectorum, etc., et de bonis in eadem inventis, captis, et per ipsum asportatis, sicut superius presentatum est, dicit quod dominus Rex nunc pardonavit ei sectam pacis sue, que ad ipsum pertinet, pro facto predicto per cartam suam, quam profert in hec verba: Edwardus, Dei gratia Rex Anglorum, Dominus Hibernie, et Dux Aquitannie, omnibus ballivis et fidelibus suis, ad quos presentes littere pervenerint, Salutem. Sciatis quod cum nos, pietate moti super eo quod tot et tam diversi homines de regno nostro totiens incidunt in amissionem vite et membrorum, de quibus quidem sunt rectati, et aliqui indictati, et alii per probatores appellati de homicidiis, roberiis, et aliis criminibus et transgressionibus diversis, contra pacem nostram factis, et quidam pro transgressionibus de foresta, qui per patrias sunt vagantes multa mala diversimode facientes, perpetrantes, et procurantes, per quod quidam ex ipsis imprisonati et quidam utlagati aut subtracti existunt; pro hujusmodi malis evitandis, et sub spe melioracionis hujusmodi malefactorum ac quiete populi de regno nostro, necnon ad requisitionem Prelatorum, Comitum, Baronum, et aliorum de consilio nostro, concessimus, de gratia nostra speciali, quod omnes hujusmodi homines, qui ad pacem nostram venire voluerint, veniant coram nobis, vel coram dilectis et fidelibus nostris Rogero Brabazon et Willelmo de Bereford, quos ad hoc assignavimus, vel eorum altero, per se, vel per amicos suos, et eciam coram nobis, vel coram eis, seu eorum altero, per se vel per amicos suos, inveniant sufficientem manucapcionem de proficiscendo statim in obsequium nostrum ad partes Vasconie, et ibidem morando ad vadia nostra quamdiu nobis placuerit, et postquam inde redierint, de stando recto in curia nostra, si quis versus eos loqui voluerit de homicidiis, roberiis, et aliis criminibus, et transgressionibus, de quibus rectati vel appellati, seu pro quibus imprisonati, utlagati, vel subtracti, existunt; et per hujusmodi manucapcionem, testificatam per eosdem Rogerum et Willelmum,

vel eorum alterum, coram Cancellario nostro habeant hujusmodi manucapti litteras nostras patentes de pardonacione secte pacis nostre, que ad nos pertinet, pro homicidiis, roberiis, criminibus, et transgressionibus hujusmodi, et eciam utlagarie, si qua in ipsos ad sectam nostram ea occasione fuerit promulgata; Nos Nicholao, filio Roberti de Oreford, qui pro morte Hugonis de Wynton, Johannis le Code, Ricardi de Donstaple, Willelmi Turgys, et aliorum in quadam navi in mare existentium, et de roberia facta in eadem navi, contra pacem nostram, unde rectatus est, se subtraxit, qui manucapcionem coram prefatis Rogero et Willelmo invenit in forma predicta, sicut per eosdem Rogerum et Willelmum coram Cancellario nostro est testificatum, hujusmodi gratiam facere volentes, pardonavimus eidem Nicholao sectam pacis nostre, que ad nos pertinet, pro morte et roberia predictis, et firmam pacem nostram ei inde concedimus, ita quod statim proficiscatur in obsequium nostrum ad partes Vasconie predictas, ibidem, sicut predictum est, moraturus, et cum inde redierit stet recto in curia nostra, si quis versus eum loqui voluerit de morte et roberia predictis. In cujus rei testimonium has litteras nostras fieri fecimus patentes. Teste me ipso apud Funtele¹ xxv die Julii, anno regni nostri vicesimo secundo.

1294. Grant to the men of Oleron of the whole of their prizes captured from the enemy.²—*Vascon Rolls*, 22 Ed. I, m. 13.

The King to all bailiffs to whom these presents shall come, Greeting. Know ye that we have granted to our men of the island of Oleron all goods that they may be able to capture, whether by land or by sea, from our enemies of the dominion

¹ Funtley, near Farnham.

² Printed in *Rolls Gascons*.

or power of the King of France, to the end that whatever they so capture may be their own, and may be applied to their own proper use. We also will, and we grant to the same islanders, that, of the goods they may happen to capture whilst in company with our barons of the Cinque Ports, or others of our realm or power, they shall have their rateable share, the others in company with them taking in like manner their share. These presents are to endure so long as it shall please us. In witness, &c., the King at Westminster, the 10th day of June.

Rex omnibus ballivis ad quos, etc., Salutem. Sciatis quod concessimus hominibus nostris de Insula nostra Oleronis omnia bona que sibi per se adquirere poterunt, tam per terram quam per mare, super inimicos nostros de dominio et potestate Regis Francie; ita quod sic acquisita sua sint, et suis propriis usibus applicentur. Volumus eciam, et concedimus eisdem insulariis quod, de bonis que ipsos in comitiva baronum nostrorum Quinque Portuum, seu aliorum hominum de regno et potestate nostra, acquirere contigerit, suam rationabilem habeant porcionem, prout alii de comitiva illa porcionem suam habuerint de eisdem. In cujus etc. quamdiu nobis placuerit duraturas etc. Rex apud Westmonasterium x die Junii. Per ipsum Regem.

1295. Ratification by the King of an agreement between the masters and the mariners of some Bayonne ships as to sharing prizes.—*Patent Rolls*, 23 Ed. I, m. 16.

The King to all to whom these presents shall come, Greeting. Know ye that, whereas lately a contention arose between John de Byssounduyn,

Peter de Arcikelouk, William Bruard of Encyst, Arnold de Mayns, Bernard de Artibraz, Dominicus de la Nuces, Pernaldus de Agwes, John de Fouans, Peter his brother, Stephen de Commeris, John Urtices, Arnold de Surroylley, Peter de Mongye, and John de Moureye, the masters of certain ships of Bayonne, of the one part, and the mariners of the same ships, of the other part, touching the sharing amongst them of the things and goods that they have captured at sea from our enemies; and at last an agreement between the aforesaid parties has been come to at Aberconeway, in the presence of our dearest brother, Edmund, to this effect—namely: That all the goods and stores that hereafter may be captured from our enemies by the aforesaid mariners and masters shall be shared between them equally, both as to quantity and value, with this proviso, that if any one of the aforesaid masters or mariners, in attacking the enemy, be wounded, his cure shall be effected out of the common fund; also, if any one of them in the like case be maimed, some part of the common fund, according to the judgment of his fellows, shall be given to him. And if any one of them in battle break or lose his weapons, they shall be appraised on the oath of their owner, and allowed for out of the common spoil, as is more fully specified in a certain writing in form of a chirograph between the parties. Therefore we, for our part, accept the aforesaid agreement. In Witness, &c. Witness the King at Aberconeway the 16th day of February.

Rex omnibus ad quos, etc., Salutem. Sciatis quod cum nuper quedam dissentio esset mota inter Johannem de Byssounduyn, Petrum de Arcikelouk, Guillelmum

Bruard de Encyst, Arnaldum de Mayns, Bernardum de Artibraz, Dominicum de la Nuces, Pernaldum de Agwes, Johannem de Fouans, Petrum fratrem ejus, Stephanum de Commeris, Johannem Urtices, Arnaldum de Surroyle, Petrum de Mongye, et Johannem de Moureye, magistros quarundam navium de Baiona, ex parte una, et nautas earundem navium ex parte altera, super participationem rerum et bonorum que super inimicos nostros sibi adquisierant supra mare inter eos faciendam ; Tandem, in presencia Edmundi fratris nostri carissimi, apud Aberconewey, inter partes predictas facta fuit concordia sub hac forma, videlicet,—Omnia bona et provisiona, que extunc nautas et magistros predictos super inimicos nostros adquirere contigerit supra mare, inter eos per medietates equales et equivalentes dividantur, hoc observato, quod, si quis ex nautis seu magistris predictis inimicos suos insultando vulneretur, ejus cura de bonis eorum communibus peragatur ; Si quis eciam ex eis in casu consimili mahemietur, de bonis communibus per arbitrium sociorum eidem leso pars aliqua tribuatur ; Et si quis eorum in hujusmodi conflictu arma fregerit vel amiserit, taxatis armis illis per ejus sacramentum cujus fuerant, eidem de perquisitis communibus allocentur, prout in quodam scripto inter partes predictas ad modum cirographi confecto plenius continetur. Nos igitur concordiam predictam quantum in nobis est acceptamus. In cujus, etc. Teste Rege, apud Aberconewey, xvj die Februarii.

1295. Letters of reprisal against Portugal.
Vascon Rolls, 23 Ed. I, m. 22.¹

The King to all bailiffs, &c., Greeting. We have caused to be viewed the letters [of marque]

¹ The Latin original is printed in Rymer ii, 691 ; also in *Lettres de Rois*, i, 418. The translation in the text is given for comparison with similar documents of later date. The earliest mention that has been found of letters of reprisal is of the year 1293. Another (mutilated), of 1296, is in *Chancery Miscellanea*, Bundle 27, File 3, No. 13.

of our nephew, John of Brittany, our lieutenant in Gascony, in these words: John, son of the Duke of Brittany, lieutenant in the [said] duchy of the illustrious lord, the King of England, Duke of Aquitaine, to all and singular, seneschals, marshals, admirals,¹ castellans, mayors, bailiffs, provosts, and all other ministers and lieges of the aforesaid King and Duke, to whom these present letters shall come, Greeting in the Lord. Bernard Dongresilli, citizen and merchant of Bayonne, has come unto us, and has by proofs shewn that, whereas some time since he loaded in Africa in a ship of Bayonne, called the St. Mary of Bayonne, of which Peter Sancii of Inzon was master, 174 great baskets of almonds,² 150 crates³ of Malaga grapes, and 490 fraills⁴ of Malaga figs, [all of] which he had bought with his own money in Africa; and that he, together with others of the same ship, sailed in her from Africa, with the said wares and much other merchandise on board, for England; [and] whilst they were lying at anchor in the said ship off the port of Lascoss,⁵ on the coast of Portugal, where they had gone for shelter from bad weather, intending to stay there until it mended, and where, whatever might be their fate at the hands of Providence, they little expected to be surprised or harassed by man, certain sons of perdition, coming out from Lisbon, made for the said ship in hostile fashion, and after spoiling the aforesaid merchant, and the others on board, of their ship, merchandise, and other goods, carried off the whole to the

¹ This is the earliest use of the word in an English record that has been noted by the present writer.

² Amigdalarum.

³ Confines.

⁴ Flayons: see tit. fraellum, Ducange.

⁵ Cascaes or Lagos, qy.

aforesaid city of Lisbon. And, of all the goods so spoiled and carried off, the King of Portugal received for his own use a tenth part; and the rest of the goods the robbers divided amongst themselves. And the said Bernard claims that, by reason of the said spoil and robbery, he is damnified to the amount of 700*l.* sterling, and he humbly prays that we shall grant to him authority to make reprisals¹ upon the men and subjects of the realm of Portugal, and particularly on those of Lisbon, and upon their goods, wheresoever he may find them or their goods, on land or sea, until he shall have obtained full satisfaction for [the loss of] his goods so carried off as aforesaid. And we, considering the wickedness of the aforesaid robbers, in committing this spoil in time of peace, and having seen a letter under the seal of the council of Bayonne aforesaid, by which the mayor, jurats, and council, after having taken trustworthy proofs thereon, signify to our lord, the King, the truth of the premises, yielding to the prayer of the said merchant, have given and granted, and now give and grant to him, Bernard, his heirs, successors, and posterity,² liberty to make reprisals upon people of the realm of Portugal, and particularly upon those of the city of Lisbon aforesaid, and upon their goods, wheresoever he may find them, whether within the dominion³ of our lord, the King and Duke, or without, [and] to retain and keep them for himself, until he and his heirs or successors or posterity, shall be fully satisfied for [the loss of] his goods so spoiled as aforesaid, or their value as declared above, together with expenses reasonably incurred by him

¹ *Licentia marcandi.*

² *Ordinio.*

³ *Districtum.*

in that behalf. [And] These presents shall endure for five years, or so long as it shall be the pleasure of our aforesaid lord, the King and Duke, or ourselves. Wherefore we straitly command you, and every of you, that neither you, nor any of you, venture to let or hinder the said Bernard, his heirs or successors or posterity, so long as these reprisals shall endure, unless either, by reason of their previous revocation, you shall be at liberty to do so, or satisfaction shall have been made for the premises, or unless such revocation or satisfaction shall be alleged by some one, and full proof thereof shall be made,¹ but, on the contrary, that if called upon by him to do so, you render him aid and assistance in executing the premises. In witness whereof we have caused our seal to be set on these letters. Given at Bayonne on Tuesday before the Feast of St. Barnabas the Apostle, in the year of our Lord 1295.

We, therefore, approving and ratifying the above licence, confirm the same by virtue of these presents, so nevertheless that in case satisfaction shall be made to the said Bernard in the premises, reprisals shall thereupon cease, [and] there shall be no further keeping or appropriation [of goods] ; and if it shall happen that he shall have captured and shall keep anything beyond [the value of his loss], he shall be obliged to answer faithfully for such excess. In witness, &c. Given at Canterbury the 3rd day of October.

¹ Nisi ipsius [marche] revocatione vel premissorum satisfactione constaret seu ab aliquo allegaretur et plenarie probetur.

1296. Order of the King to William de Leyburne to restore friends' (Flemish) goods captured in a Flemish ship, but to deliver to the captors enemy (Spanish) goods in the same ship.—*Close Rolls*, 25 Ed. I, m. 14.

The King to his well-beloved and trusty William de Leyburne,¹ captain of his mariners, Greeting. Whereas of late we commanded our well-beloved clerks, Philip de Wylgheby, lieutenant of our treasurer, and John de Drokenesford, keeper of our wardrobe, that they should without delay set at liberty those Flemings who were lately captured by some of our men of Winchelsea in a certain ship off the coast of Brittany, and afterwards sent to London by our order, to be there kept in custody until we should give further order thereon, together with their goods and chattels captured with them, whatsoever they should be, as to whom the noble John de Gaure and Gerard de Verboys, knights, had come to us on an embassy from the count of Flanders, to testify that they were of the friendship and obedience of him, the count, provided it be satisfactorily proved to them [Philip and John] that, either the ship or the goods, or any part of the goods, belonged to those Flemings. And although, according to the witness of the said knights, the aforesaid Philip and John set at liberty the said Flemings, as we commanded them to do, and although they commanded the aforesaid men of Winchelsea on our behalf to liberate the goods and chattels

¹ The first Admiral ; see below, p. 46, note.

of the said Flemings, so liberated as aforesaid, that were captured with them in the aforesaid ship, they, [Philip and John], were by no means able to restore the same to the Flemings, because the goods and chattels had been arrested by you. Now we, desiring that due and speedy justice should be done in the matter of the aforesaid goods and chattels, command you that, if it be so, you cause without delay the goods and chattels of the said Flemings that were captured with the said ship, whatsoever they are, or any other goods that may lawfully be proved to you to belong to those Flemings, to be restored to them. Otherwise you are to come before us at our next coming to Canterbury, to make answer touching the premises, and to do such further things, and receive such punishment, as our court shall order. But, as to the Spanish goods captured in the aforesaid ship with the said Flemings, you are to cause them to be liberated or restored to those who so possessed themselves of the same, unless they shall have been previously delivered to them. And you are to bring this writ with you. Witness the King at Arundel on the 27th day of May.

Rex dilecto et fideli suo Willelmo de Leyburn', capitaneo marinariorum suorum, Salutem. Cum nuper mandissemus dilectis clericis nostris, Philippo de Wylgheby, tenenti locum thesaurarii nostri, et Johanni de Drokenesford custodi garderobe nostre, quod illos Flandrenses in quadam navi in costera Britannie per quosdam homines nostros de Wynchelse nuper captos, et postmodum de precepto nostro London' missos, custodiendos ibidem donec aliud inde precepissemus, quos nobiles viri, Johannes de Gaure et Gerardus de Verboys, milites, qui ad nos in nuncium comitis Flandrie accesserunt, testificari vellent coram dictis Philippo et Johanne esse de amicitia et

fidelitate ejusdem comitis, sine dilatione ad ipsorum testimonium deliberarent, una cum bonis et catallis suis cum ipsis captis, quecunque essent, sive navis sive alia bona, quatenus eis legitime constaret bona illa ipsorum Flandrensiū esse. Ac licet predicti Philippus et Johannes dictos Flandrenses ad testimonium predictorū militum, prout eis mandavimus, deliberaverunt, et predictis hominibus nostris de Wynchelse mandaverunt ex parte nostra quod bona et catalla dictorum Flandrensiū, ut predictum est, deliberatorum cum ipsis in predicta navi capta eisdem Flandrensibus deliberarent; iidem tamen homines nostri de Wynchelse responderunt, ut accepimus, quod bona et catalla ipsorum Flandrensiū eisdem restituere minime potuerunt, eo quod bona et catalla illa per vos arrestantur; Nos, iisdem Flandrensibus de bonis et catallis predictis debitam et celerem restitutionem fieri volentes, vobis mandamus quod, si ita est, tunc bona et catalla dictorum Flandrensiū, una cum navi predicta capta, quecunque fuerint, sive navis sive alia bona, quatenus vobis legitime constiterit bona et catalla illa ipsorum Flandrensiū esse, eisdem sine dilacione restitui faciatis; Alioquin sitis coram nobis in proximo adventu nostro apud Cantuar', super premissis responsuri, et ulterius facturi et recepturi quod curia nostra consideraverit in hac parte; Bona vero illorum de Ispannia, una cum dictis Flandrensibus cum predicta navi capta, illis qui bona illa sic adquisiverunt supra mare liberari seu restitui faciatis, nisi eis prius fuerit liberata; et habeatis ibi hoc breve. Teste Rege apud Arundel xxvij die Maii.

1297. Writ to the bailiffs of Ravenser to restore a ship of Flemish enemies arrested before war was declared.—
Close Rolls, 25 Ed. I, m. 16.

The King, to his bailiffs of Ravensere, etc. . . .
And because that ship was, as we are told, arrested

at the time when the aforesaid Count [of Flanders] was adhering to us, and before the alliance, which was afterwards made between him and the King of France, had been entered into, and therefore, if it be so, she cannot be deemed to have been forfeited to us ; and because it never has been, and it is not, our intention to give to any one a ship that has not been forfeited to us ; We command you that, if the aforesaid Dodinus is able to prove before you that the said ship was arrested before the aforesaid alliance was entered into, and that she was not forfeited for some trespass done by him, Dodinus, to us or to some one of our realm, then you restore her, together with her gear, to him, Dodinus, if she is still in your port, according to the tenor of our order thereon already given to you.

Rex ballivis suis de Ravensere, etc. . . . [*After stating that the cog Godyer, semble, one of the ships arrested in 1293 (supra, p. 21), had been given to one who had lost his ship in the King's service, the writ proceeds:*] . . . Et quia navis illa, tempore quo prefatus Comes parti nostre adhesit, ante confederacionem inter Regem Francie et ipsum Comitem postmodum habitam, fuerit arrestata, sicut accepimus ; per quod, si ita sit, navis illa dici non potest nobis forisfacta ; et nostre intencionis non extitit, nec existit, navem aliquam, que nobis forisfacta non fuerit, dare seu concedere alicui ; Vobis mandamus quod, si prefatus Dodinus docere poterit coram vobis quod dicta navis ante confederacionem predictam sic fuerat arrestata, et quod pro aliqua transgressione ipsius Dodini nobis, aut alicui de regno nostro, per ipsum facta non fuit forisfacta, tunc navem illam, cum ejus atilio, eidem Dodino, si adhuc in portu vestro existit, restituere, secundum tenorem mandati nostri prius vobis inde directi.

1297. Agreement entered into at Bruges between Edward I and Guy, Count of Flanders, as to the behaviour at sea of English and Flemish ships, national flags, and redress of piracy.—*Chancery Miscellanea*, Bundle 27, File 3, No. 19.¹

Know all men, that on the second Wednesday in Lent—that is to say, the 20th day of March in the year of our Lord 1297—at Bruges, in the presence of us, Guy, Count of Flanders and Marquess of Namur, and of the honourable father, Walter, by the grace of God Bishop of Chester and Treasurer of England, and Sire John de Berewik, clerk, envoys of the most high and noble prince, the King of England, and Seigneur William de Leyburne, Admiral of the sea of the said King of England, the following ordinances and agreements, to endure for ever, were made and come to between the masters and mariners of England, Bayonne, and Flanders, as suitable for all of them, those of the one country and those of the other, by their common consent, to preserve peace and friendship, and to ensure the

¹ The French original, printed in Rymer ii, 759, differs slightly from that of which a translation is here given; it has not been thought necessary to reprint it. It will be noticed that William de Leyburne is styled Admiral. Three years before, on June 7, 1294, Leyburne bore a different title. On that day he was appointed 'capitaneus nautarum et marinellorum Quinque Portuum et membrorum eorundem, et similiter Jeremuthe, Baione, Hibernie, et Wallie et omnium aliorum portuum et locorum infra regnum nostrum' (*Vascon Rolls*, 22 Ed. I, m. 8); and earlier in the same year, he is called 'cheventeyn (captain) de tote la navye de Engleterre, Baione, de Irelande, et de Gales' (*Chancery Miscellanea*, Bundle 2, File 10, No. 4).

safety of themselves and of the merchants and others of the aforesaid countries.

First, it is ordained and agreed that all ships of England, and of Bayonne, and of the realm of England, going to the parts of Flanders, shall wear a flag bearing on it the arms of the King of England, and all ships of Flanders, and of the realm of the Count of Flanders, going upon the sea, shall wear a flag bearing on it the arms of the Count of Flanders, and shall carry letters patent sealed with the common seal of the town to which she belongs, witnessing that she belongs to such and such a town of the realm of the Count of Flanders. And this is ordained in order that the enemies of England or of Flanders shall not be able to deceive by taking or wearing false colours.

Further, it is ordained and agreed that, if one of the realm of the King of England kill anyone of the realm of the Count of Flanders, or rob or does any trespass against him, or if those of the realm of the Count of Flanders kill any of those of England, or Bayonne, or of the realm of the King of England, or rob, or commit any other trespass against them, that justice and satisfaction be done and given in such sort that he who is convicted of murder shall suffer death, and he who has maimed shall himself be maimed ; and for other trespasses justice shall be done according to the custom of the country where the trespass is committed.

And be it known that if murder or robbery or other trespass be committed by the one side or the other, or if justice or satisfaction for the same shall be long delayed, [nevertheless] the alliance, peace, and friendship, and common interests between the two countries, the one to the other, shall not be thereby in any way changed,

diminished, or troubled, and for such murder, trespass, or robbery, justice or satisfaction shall be sued for by those concerned and injured as speedily and effectually as possible. In witness whereof we Guy, Count¹ of Flanders, have sealed these presents with our seal. Given at Bruges, the year and day aforesaid.²

1297. Writ directing the arrest of a friend's ship wrongfully seized by men of Jersey, who had received the King's pay, and afterwards deserted his service.—*Chancery Files, General Series*, 25 Ed. I.³

Edward, by the grace of God King of England, Lord of Ireland, and Duke of Aquitaine, to his bailiffs of Southampton, Greeting. From Nicholas Cheyny, keeper of our islands of Guernsey and Jersey, we hear that, whereas he lately agreed with Peter Barquiere, Arnold de la Barqua, Andreas de Paradis, Amico de Fonte, William Arn' de Pio, and their companions, that for a certain sum of money delivered to them out of our treasury they should with their ship attack and harass upon the sea our enemies of France, they, after being paid the money, deserted our service, and captured

¹ Qy. : G. Cuens in original.

² The following endorsement does not appear in Rymer ; 'Cest un escrit endente, dont la une partie demoert selee du seal le Conte de Flandres devers le Roy, et lautre partie sealee du seal le Roy devers le dit Conte demorante. Et fait a remembrer qe la partie souz le seal le Conte fust baille a monsieur John Sauvage a Gillingham le xxv jour de March' (?) pur faire crier sur la marine meisme lescrits.'

³ This series is under rearrangement, and no more definite reference can at present be given.

in a port of Brittany a certain ship loaded with salt or other merchandise, contrary to the order previously given by us, that no one was to do any harm on the coasts of Brittany; and that they took the ship so loaded to your port, and there still keep her. And because we wish to be further informed touching the premises, we command you, that you cause the said ship to be arrested, together with the goods in her, and to be kept in safety, without pilfering, until we give you further order. And you are to direct the said mariners to send one or two of their number to our son Edward, our lieutenant in England, to certify us upon the aforesaid matter, and to do whatsoever else shall be there ordered in this behalf. And you are without delay to certify to him, our son, under your common seal, what you do in the premises, sending back to him this writ. In witness, &c.

Edwardus, Dei gracia Rex Anglie, Dominus Hibernie, et Dux Aquitanie, ballivis suis Suthampton', Salutem. Ex parte Nicholai Cheyni, custodis nostri Insularum de Gernes' et Geres', accepimus quod, cum ipse, cum Petro Barquiere, Arnaldo de la Barqua, Andrea de Paradis, Amico de Fonte, Willelmo Arn' de Pio, et sociis suis marinellis, nuper convenisset pro certa pecunie summa eis de denariis nostris liberata, quod ipsi cum navi sua super mare inimicos nostros de potestate Regis Francie explorarent et gravarent, illi recepta pecunia illa, a servitio nostro recedentes, quandam navem sale vel aliis mercandis carcatam in quodam portu de Britannia ceperunt, contra inhibitionem per nos prius factam ne aliquis de nostris in costera Britannie dampnum faceret, et ipsam navem sic carcatam usque in portum vestrum duxerunt, et ibidem adhuc tenent eandem; Et quia super premissis volumus plenius certiorari, vobis mandamus quod navem predictam, una cum bonis in eadem contentis, arestari et salvo absque

aliqua distractione inde facienda custodiri faciatis, donec aliud inde precepimus ; Et scire faciatis marinellis predictis quod unum vel duos ex ipsis ad Edwardum filium nostrum, tenentem in Anglia locum nostrum, mittant, ad certiorandum nos de facto predicto, et faciendum ulterius quod de concilio nostro ibidem ordinatum fuerit in hac parte ; Quod enim in premissis feceritis eidem filio nostro sub communi sigillo vestro constare faciatis sine mora, hoc breve remittentes eidem. Teste Edwardo filio nostro apud Westmonasterium xxj die Octobris anno regni nostri vicesimo quinto.

1299 (*circa*). Claim by the men of the Cinque Ports to ships captured from the Normans, after the latter had hoisted the 'bausan.'¹—*Chancery Miscellanea*, Bundle 29, File 3, No. 7.

The following is an extract from a lengthy document containing statements by the men of Bayonne and the Cinque Ports, on the one side,

¹ The St. George and St. Edward galleys built for the King in 1324 were supplied with bauzans (*Add. MSS.* 17364). The independent, not to say threatening, language in which the Portsmen address their Sovereign in this document is remarkable. The tenderness with which they were treated by Edward is shewn by many entries in the records, amongst which are two orders which were issued by the King and the council earlier in the reign, declaring the law as to average contribution in case of jettison—a subject which closely affected the shipping community. By these orders the contention of the Portsmen was upheld, as against that of the merchants ; and the point of law in dispute was decided in favour of the former. The first mention of the matter is in 1277 (*Patent Roll*, 5 Ed. I, m. 14 d), as follows :—

The King to all bailiffs and other his lieges along the sea-coast of England, to whom these presents shall come, Greeting. We have heard, at the grievous complaint of masters of ships and other seafaring people of Bayonne, the Cinque Ports, and elsewhere under our rule, that the merchants of Bordeaux and others, as well in parts beyond sea as in England, in

and the Normans, on the other side, of depredations at sea committed by the one against the other

freighting their ships exact, and strive to extort from them, new conditions and divers other novelties in their charters of affreightment in respect of jettison of wines and other merchandise, which frequently has to be made at times of sea peril, to their no small hurt and injury, and to the prejudice of their shipping. Now we, being unwilling that injury should be done to them, or that they should be unduly harassed, contrary to the customs that have hitherto been observed, command you that you do not permit the aforesaid masters and people to be in any way troubled or harassed in your bailiwicks by such new conditions, contrary to those hitherto customary in charter parties. In witness, &c.

Rex omnibus ballivis et ceteris fidelibus suis de costera maris Anglie ad quos etc., Salutem. Ex gravi querimonia magistrorum navium et aliarum gentium nostrarum maris de Baiona, de Quinque Portibus, et aliunde sub dominio nostro existentium, accepimus quod mercatores Burdegalenses et alii, tam de partibus transmarinis quam de partibus Anglie, naves ipsorum affrectantes, ab eisdem magistris et gentibus pro ejectionibus vinorum et aliarum mercium, que periculis invenientibus frequenter contingunt in mari, novas conventiones et alias novitates diversas, que retroactis temporibus exigi non consueverunt in affrectationibus hujusmodi, exigunt et extorquere nituntur, in ipsorum prejudicium non modicum et gravamen, ac dampnum navigii earundem. Nolentes autem eisdem injuriam fieri, aut eos contra consuetudines hactenus optentas et usitatas indebite pergravari, vobis mandamus quod predictos magistros navium et gentes non permittatis per novitates hujusmodi in ballivis vestris contra consuetudines in affrectationibus navium hactenus observatas molestari in aliquo vel gravari. In cujus, etc. Teste, etc. Ut supra.

This was followed, in 1285, by a definite declaration of the law on the point in dispute, which was, whether or no the ship and the master's and mariners' personal effects and other property on board should contribute to the average loss occasioned by the jettison. The decision was that they should not contribute. The document is printed in Rymer ii, 298, from Pat. 13 Ed. I, m. 18. Another original is *Coram Rege*, 13 Ed. I, m. 1. The following is a translation of this remarkable order :—

The barons of the Cinque Ports of the lord the King, and

between the years 1292 and 1298. The document is printed in full, but not correctly, in *Lettres de*

likewise the mariners of Yarmouth, and all other the mariners of the realm of England, have complained to the lord the King that when it happens that one of them freights his ship to carry wines or other goods from parts across the sea to England, Gascony, Ireland, or Wales, and the necessity arises by reason of bad weather coming on them, that for the ship's safety those in her must make jettison of ten, twenty, thirty, or sometimes forty tuns, more or less, according to circumstances ; and from time immemorial the custom has been, and it has been so allowed to the same barons, that the ship in which the wines or merchandise are loaded should be free from any sort of contribution in respect of the jettison so made or affected, on the terms that the shipmaster lose his freight for the tuns or merchandise thrown overboard ; [now] Gregory de Rokesl', Henry de Wayleys, and other merchants of the lord the King of England, Gascony, and Ireland, of the realm of the lord the King, are obliging the aforesaid barons of the Cinque Ports, and other the mariners of our realm, to appraise their ships, together with all their gear, and [even] the rudders that belong to them, as well as the wines and other goods that are in them, towards making good [the loss on] the wines or goods that have been purposely thrown overboard, to the very grievous loss of the barons and mariners [aforesaid, and] contrary to the liberties granted to the barons, &c.

And the aforesaid Gregory and Henry, together with many other merchants of England and Gascony, came [before the King], and after hearing the arguments of, as well the aforesaid merchants, as the barons and mariners, it was provided by the King and his council, and granted, and finally adjudged, that for the future the ship herself, in which the merchandise and goods were, together with all her apparel, the ring worn on the shipmaster's finger, the victuals, the mariners' utensils used for cooking their meals, the shipmaster's necklet, his belt, and the silver cup from which he drinks, if he have any such, should be quit and free from making contribution to the jettison aforesaid ; and that the mariners' freight for the wines and other goods in the ship that were salved should also be quit ; and the shipmaster is to lose his freight on the wines or goods thrown overboard ; and all other the goods in the ship, whether belonging to the mariners or the merchants, as wines, merchandise, money or specie, and all other goods and merchandise,

Rois, i, 392. Of part of the extract in the text there is another copy, in a fourteenth-century hand, in *Chancery Miscellanea*, Bundle 28, File 5, No. 51.

. . . The Normans, with all the haste they could, left the river Charente, and as soon as they were out of the river, they had the wind from the south, to go to the coast of Brittany, where your subjects lay at anchor. And there, on the Wednesday next before Pentecost, in the same year, they came with 290 ships well equipped with men-at-arms, sheltered castles fore and aft, castles at each mast head, banners of red sendal¹ flying, each banner being 30 ells long and 2 ells broad. And these banners are called 'bausans,' or by the English 'streamers'; and everywhere, amongst mariners, they mean death without quarter and war to the knife. And in this fashion and in such manner came the Normans upon your subjects, attacking them feloniously, and against the peace that had been made. And your subjects defended themselves, and, in defending themselves, God, in His grace, gave them the victory over their enemies; and in no other way could they have escaped death. And all these things happened through the Normans beginning the fight, and afterwards carrying it on, and are notorious and manifest, and were imagined and done against your subjects feloniously, after the peace was made. And because the except the thing aforesaid: [namely,] the ship herself, her gear and apparel, victuals, the mariners' cooking utensils, the [shipmaster's] necklet, belt, silver cup, ring, and his freight upon the goods that are saved, are, for the future, as is aforesaid, to be appraised for making good the loss on the wines or goods thrown overboard into the sea on account of bad weather.

¹ Cendal, a silken fabric (Beck's *Drapers' Dictionary*).

Normans by their wrongdoing and violence began and carried on the said fight, and assaulted and attacked your subjects with the signal flying for war to the death—that is to say, the said ‘bausan’—and because your subjects did what they have done in self-defence, we say that, for these reasons, we are not bound to make restitution or recompence, even if anything was done [amiss], or [aught] was captured by us in the said fight ; since it is the custom and law of the sea that whenever the said ‘bausan’ is flown, neither party, either on the one side or the other, is required to make restitution or recompence for anything that is done or captured [in the fight] ; that when that banner is hoisted it is the custom and the law of England, that if a man kills another, or does anything like that, in defending himself, whether there be war or peace at the time, he is not held responsible. Wherefore, Sire, your barons of the Cinque Ports, and all others in the fleets of your realm of England or of your obedience, pray that no wrong or violence be done to them ; since they are always ready to do and to receive justice in your court at the hands of their peers, earls, and barons, according to the law of the sea, whensoever and wheresoever they are so required. And, dear lord, your barons of the Cinque Ports, and all others your mariners, have sworn to give their lives in fighting all [your enemies], and they pray that it may please you to remember how you have sworn to your people to maintain their rights in accordance with the laws, customs, and franchises which your ancestors, the Kings of England, have given, and you have yourself granted and confirmed. And let the King’s council be well assured that if wrong or grievance be

done to them in any way against justice, they will forthwith forsake their wives and children and all they possess, and go to make their profit upon the sea wheresoever they think they will be able to acquire it.

. . . Les Normanns se hastirent taunt come il poerent de issir hors de la ryvere de Charauntte, et si tost come les Normanns furent hors de la riviere il avoient vent de Suthd¹ de aler la costere de Bretayne, la ou voz gentz furent auncrez ; Et la Vendri procheyn devant la Pentecoste qe passe est en cest an vindrent Normannz ove cc iiij^{xx} et x² neefs byen eskiyees de gentz de armes, chasteaux hordis devant et de rere, chasteaus au somet de checun mast baneres desplees de rouge cendal, checune banere de ij jaunes de large et xxx de long ; lesquels baneres sount appellees bausans, et la gent Dengleterre les appellent stremeres ; et celes baneres signefient mort saunz remedie et mortele guerre en toz les lieux ou mariners sont ; et en cele forme et en tiele manere Normanns vyndrent sur vos gentz, et les assaillerent fellounesment et en contre la pees avant crie ; Vostre gentz se defendirent et Dieu par sa grace lur dona victorie de leur enemys en eux memes defendant, come ceux en autre manere ne poeient eschure la mort ; Et totes cestes choses sont faites par fait de guerre commencee et continue par Normans, et notories sont et apertes compassez et faites fellounesment en contre vostre gent dedenz pees crie ; Et pur ce que les Normans par lour utrage et par lur coupe ont commence et continuee la dite guerre, et ont envay et essayly vostre gent ove signe de guerre mortelee, cest assavoir de les ditz baucans, et vostre gent ont fait ce qils ont fet en eux defendant, si come il est dit par desus, nous dioms, par les choses et resons desus dites, qe nous ne sumes tenuz fere restitution ne amende, si nulle chose cyt estre faite ou prise par nous en la dite guerre ; Kar il est usage et lay de la meer qe des choses faites ou prises sur meer en guerre, meynent ou le dit

¹ Not 'vent a soheit,' as printed in *Lettres de Rois*.

² Not 'cc' as printed in *Lettres de Rois*.

baucan soit leve, ne doit estre fait restitution ne amende dune part ne dautre a celui qe tiele baniere levee ; Et est usage et lay del Royaume Dengleterre qe si un hom fait un mort ou autre chose semblable en soy defendant, il ne est tenuz de ceo, ne en temps de pees ne de guerre. Dunt, Sire, vos Barons de Cynk Portz, et toz les autres de la maryne de vostre Royaume Dengleterre et de vostre seignurie, vous prient qe tort ne force lour soit fait, kar eux serront tot jours prest de fere et receyvre droit en vostre curt par agard de lour peers countes et barouns, solonc la ley de marinage, quant deveront, et la ou il deveront. Et, cher Seigneur, voz barouns de Cynk Portz, et les autres de la marine Dengleterre et de vostre seignurie, vous prient par Dieu, si vous plect qil vous sovygne coment votre gent de Portz et toz les autres de la marine vous sont sermentez contre toz qui poont vyvre et morir, et si vous plect quil vous sovygne coment vous estes sermentez a vostre pople de tenir les endreiture solonc les laiis et les custumes et les franchises qe voz auncestres Rois Dengleterre ont done et vous meymes grante et conferme. Et soit le conseil le Roi bien avyse qe si tort ou grevance lur soit fait en autre manere contre droit, plus tost gerpyront femmes et enfaunz et quant quil ont et irront purchacer par la meer la ou il quidront lur preu fere.

1306. Reprisals against goods of Hollanders brought to Lynn. Arrest of the mayor of Lynn, for warning ships of Holland not to come to Lynn for fear of arrest, and for passing off as his own some of their goods already arrived.—*Coram Rege Rolls*, 35 Ed. I, Easter, r. 49.¹

Walter Dreu was attached to answer Walter le Ken of Lincoln, who sues for himself [*and nine*

¹ Earlier proceedings in the same case are *Coram Rege*, 34 Ed. I, Trin., v. 34.

others named], citizens and merchants of the King's city of Lincoln in an action—

(. . . in which it was pleaded that the King's writ had been sent to the bailiffs of Lynn, that whereas Henry Bere and nine of his fellow citizens of Lincoln had freighted a ship with wool and other merchandise to the value of 89*6*l. 10*s.*, to be taken to Brabant and there sold, some Zealanders boarded her at Ger-vliet and carried off her cargo. The King, having demanded, and failed to obtain, redress from the Count of Holland, directed the bailiffs of Lynne to arrest any goods of Hainault, Holland, Zealand, or Frisia coming to Lynn, to the value of 89*6*l. 10*s.*, in order that satisfaction should be made 'secundum legem mercatoriam' to the English merchants. Several arrests were made, but defeated by the action of Dreu, the mayor of Lynn, mentioned below. Whereupon the King sent a further order to the bailiffs of Lynn, to make good to the English merchants the value of the goods that had been already arrested, and to arrest more goods coming to Lynn from the countries mentioned above; and in default to come themselves before the court and receive such punishment as the court should order. The record describes Dreu's proceedings as follows :—

. . . Geoffrey Dreu, lately mayor of Lynn, wickedly contriving, and especially during the time that he was mayor, by collusion and conspiracy with merchants of the said parts of Hainault, Holland, Zealand, and Frisia, to make sport of our orders aforesaid, and to hinder their being carried out, received into his own house their goods and merchandise, as soon as they were landed at the said town of Lynn, and, in consideration of part of them being handed over to him, claimed the whole as being his own property; and in order to cloak his wickedness and collusion in the matter, he, Geoffrey, went out frequently to meet the said merchants of Hainault, Holland, Zealand, and Frisia, as they were coming by sea or by land with their goods and merchandise to the said town of Lynn, and warning them of the King's

orders given to the bailiffs of the town as to arresting their goods, and bargaining with them that, if by his aid and counsel they were enabled to escape or avoid the arrest, he should have a part of the goods, he paid them a penny, by way of earnest money, for their goods and merchandise, and in this way, under pretence of the earnest money having been paid, when the goods and merchandise arrived at the port of Lynn, he wickedly claimed them as his own, in manifest contempt and mockery of the King, and of his aforesaid commands, and to the grievous injury and loss of the aforesaid merchants.

(. . . The pleading goes on to state that various arrests of Hollanders' goods had been made, all of which were rendered useless to the plaintiffs through Dreu's schemes. Dreu appears, and pleads not guilty; and there the record ends.)

Galfredus Dreu attachiatus fuit ad respondendum Waltero le Ken de Lincoln' qui sequitur pro se et Henrico Bere, Johanne filio Simonis, Waltero de Canewik, Ricardo de Seuerby, Radulpho de Filingham, Gilberto Rothynger, Alano de Thoresweye, Rogero de Buselyngethorp, et Johanne de Tumby, civibus et mercatoribus Regis civitatis Linc' de placito quare . . . (*stating the facts above summarised, and proceeding as follows*):—

. . . Galfredus Dreu, nuper maior de Lenn, et maxime tempore quo maior ejusdem ville extitit, mandata nostra predicta illudere et executiones eorundem impedire per collusionem [et] conspiracyem inter ipsum et mercatores dictarum partium Haynonie, Hollandie, Selandie et Frisie prolocutas malitiose machinando bona et mercimonia eorundem mercatorum Haynonie etc. statim cum ad portum predictę ville de Lenn applicuerint in domo sua receptavit, et ea pro parte inde habenda quasi sua propria advocavit; et idem Galfredus, ut suam malitiam et collusionem in hac parte valeat palliare, a dicta villa de Lenn tam per terram quam per aquam egressus, dictis

mercatoribus Haynonie Hollandie Selandie et Frisie cum bonis et mercimoniis suis diversis versus dictam villam venientibus frequenter obviando, et ipsos de hujusmodi mandatis Regis ballivis ejusdem ville de arestatione hujusmodi directis premuniendo, cum eisdem mercatoribus pro parte bonorum illorum habenda contrahendo, si per ejus auxilium et consilium hujusmodi arestationem effugere valeant vel evitare, unum denarium nomine ararum¹ pro bonis et mercimoniis suis eisdem mercatoribus Haynonie etc. tribuit, et sic colore ararum illarum, cum bona et mercimonia illa ad portum predictum venerint, ut sua propria maliciose advocavit, in Regis ac mandatorum Regis predictorum contemptum et illusionem manifestam et mercatorum predictorum Regis dispendium non modicum et gravamen etc. etc.

1315. Order to the Warden of the Cinque Ports to make arrangement for the safety of merchant ships coming to England, and to send some of the Barons to consult thereon.—*Chancery Miscellanea*, 13, File 1, No. 21.

Edward, by the grace of God King of England, Lord of Ireland, and Duke of Aquitaine, to his well-beloved and trusty Robert de Kendale, constable of his castle of Dover and warden of the Cinque Ports, or to his lieutenant, Greeting. Because we have been given to understand that many ships, laden with corn and merchandise, are shortly to come to our realm from foreign parts, and inasmuch as we have been informed that certain malefactors are lying in wait upon the sea for the said ships, to hinder them from

¹ Arrha = earnest money.

coming to our realm, We command you that you forthwith treat with the Barons and good men of the aforesaid Ports, and arrange between yourselves and them that good and sufficient protection be afforded to the said merchants who are coming to our realm. And further we straitly command you that with all possible speed you treat with the Barons and with our good men aforesaid, and arrange with them for the security of the said merchants and their ships laden with their corn and other merchandise, both on their coming and on their departure. And you are to come yourselves before our council in person on the Wednesday next after the octave of Holy Trinity next, to inform our said council, then and there, touching the arrangements that have been made between you and the Barons and good men aforesaid for the security of the aforesaid merchants. And on the day and at the place aforesaid you are to cause six of the most discreet of the Barons of the Ports to come from the Ports before our said council, armed with full authority for themselves and the commonalties of the aforesaid Ports, to treat and to agree before our council aforesaid touching such things as shall be further ordained for the safety of the said merchants desiring to come to our realm aforesaid. And you are to have there the names of the Barons (who are chosen), and also this writ. Witness, &c.¹

Edwardus, Dei gratia Rex Anglie Dominus Hibernie et Dux Aquitanie, dilecto et fideli suo Roberto de Kendale, constabulario castri sui Dovore et custodi Quinque Portuum suorum, vel ejus locum tenenti, Salutem. Quia intelleximus quod plures naves bladis et mercimoniis

¹ The names of five Barons chosen are endorsed.

onerate infra regnum nostrum a partibus exteris in proximo sunt venture, et pro eo quod aliqui malefactores insidiantur dictis navibus supra mare ad impediendum eas quominus infra regnum nostrum veniant, prout nobis intelligi datum erat, Vobis mandavimus non est diu quod cum Baronibus et probis hominibus Portuum predictorum tractaretis et inter vos et ipsos aliquam bonam et sufficientem securitatem pro hujusmodi mercatoribus infra regnum nostrum venientibus ordinaretis; Vobis adhuc mandamus, firmiter injungentes, quod cum Baronibus et probis hominibus nostris predictis de hujusmodi securitate mercatorum cum navibus bladis et aliis mercimoniis suis infra regnum nostrum predictum venientium et redeuntium ab eodem cum omni celeritate qua poteritis tractetis et eciam ordinetis. Et vos ipsi sitis coram consilio nostro in propria persona vestra apud Westmonasterium, die Mercurii proximo post Octavas Sancte Trinitatis proximo futuro, ad informandum dictum consilium nostrum tunc ibidem super hiis que inter vos et barones ac probos homines predictos super securitate mercatorum predictorum fuerint ordinata. Et ad diem et locum predictos venire faciatis coram dicto consilio nostro de Portubus predictis sex Barones de discretioribus Portuum illorum cum sufficienti potestate pro se et communitatibus Portuum predictorum ad tractandum et consentiendum coram consilio nostro predicto super illis que tunc ibidem pro securitate hujusmodi mercatorum infra regnum nostrum predictum venire volencium ulterius contigerit ordinari. Et habeatis ibidem nomina Baronum predictorum et hoc breve. Teste me ipso apud Westmonasterium xxx die Maii anno regni nostri nono.

1326. Memorandum as to the King's order to his fleet at Southampton, to attack the French, but not those of Flanders or Brittany; and to treat all other ships as friends. — *Chancery Miscellanea*, Bundle 27, File 13, No. 45.¹

Be it remembered that Monsieur Rauf de Cameys, who by order of our lord the King is going to Southampton, is charged by him, our lord, to speak to the Admirals of the sea of those parts and to the masters and mariners of the ships of the same parts, lately mustered by the King's order, ordering them to put, array, and set the fleet to sea, to serve against the enemies of the power of the King of France, who have made war upon him, and are detaining his wife and his dear son Edward against his will, and waging war on the Duchy of Guienne, and keeping from him his lands there, and receiving into the company of his said wife and son his mortal enemies; and that [Rauf is ordered] to tell the said Admirals and masters and mariners, as faithfully [and] as positively as he knows or can, that the intention of the King was and is, that all merchants, except those of the said power [of France], shall be able safely and surely to enter and stay in his realm, and to depart out of it, according to the tenor of the Ordinance of the Staple² and the King's command, upon pain of severe punishment to the said Admirals, masters, and mariners, if they trouble or molest,

¹ There is a similar order to the Cinque Ports fleet (*ibid.* No. 44).

² 27 Ed. III, st. 2, c. 13.

either in person or goods, any merchant or other man passing by sea, whether he be of the King's realm or of any other country or power, except only the people of the said King of France; and these the King wills and commands them to assault at all costs, except they be men of Flanders or Brittany, who, of late, just before this quarrel began, entered into a truce with our said lord the King, which is still existing for as long as is mentioned therein. But our lord the King wills and commands the said Admirals, masters, and mariners, that they treat all merchants other than those in hostility with him, as is before more distinctly and fully set forth, in as good and courteous a manner in all respects as possible, and assist them, and sail in company with them for their safety, according as they have need of it.

Fait a remembrer qe monsieur Rauf de Cameys, qi par comandement notre seignour le Roi est a aler pardevers les parties de Southampton, est charge par meisme notre seignour de parler as Admirals de la mier de celes parties, et as seignours mestres et maryners des neefs de meismes les parties nadgaires arraies par comandement du Roi, de eux mettre sur mier en flote pur grever ses enemys du poair le Roi de France, qi lui ont meuvez guerre et lui detiegnent sa femme et son cher filz Edward encontre sa volonte et chivauchont de guerre sur la Duchee de Guienne, et lui deteignent terres illoeqs et receptent ses enemys mortelx en la compaignie ses ditz femme et filz, et a dire par credence as ditz Admirals, seignurs mestres et maryners, qil purra trover en si chargeante manere come il savera et purra qe lentencion du Roi feust et est qe touz marchauntz sauf du dit poair puissent sauvement et seurement entrer et demorer en son Roialme, et dilloeqs departir selonc la forme contenue en lordenance de le staple, et comande du Roi sur greve forfaiture as ditz Admirals, seignurs mestres et maryners, qils ne grevent ne molestent en corps ne en biens nul marchaunt ne autre passant par

la mier qi soit de son Roialme propre ne dautri terre ou poer forspris tantsoulement les gentz du poair le dit Roi de France, les queux le Roi voet et comande a grever de toutes coustees, forspris les gentz de Flandres et de Bretagne, qe de piestead ¹ avant ceste riote comencee avoient triewes ad nostre dit seignur le Roi et unqore ount adurer quant pier ² mes voet et comande nostre seignur le Roi as ditz Admirals, seignurs mestres et maryners, qils tretent touz marchauntz autres qe de sa enemiste come desus est distincte plus pleinement en toutes les bones et curtoises maneres qils purront et les eident et consortent de sauf conduyt sicome ils enbusoigneront.

1336. Edward III requests the Count of Holland ³ not to supply his enemies, t he Scots, with ships.—*Close Rolls*, 10 Ed. III, m. 9 d.

The King to the noble and powerful lord, the Count of Hainault, Holland and Zealand, and lord of Frisia, his dearest father, Greeting and affectionate love. It is known to all, and, as we believe, you are not ignorant that Scottish rebels, enemies to us, their overlord, and to our vassal Edward [Balliol], King of Scotland, have presumed to raise a rebellion against us and our said vassal, although the justice of our overlordship, and of the hereditary succession of him, Edward [Balliol], is most clearly manifest; and that certain men, whilst pretending to furnish aid to the Scots, are unjustly seeking to do us hurt, and are making great provision of galleys and armed ships, wherewith to overcome to the

¹ Piecza = lately.

² 'Grant piete' in original.

³ Similar requests were sent to the King of Norway and the Count of Gueldres (see Rymer iv, 715).

utmost of their strength us and our realm. Wherefore we earnestly ask you, noble Sire, and we hope to find you always and especially propitious and favourable to us in so manifestly just a cause, that inasmuch as the said people in their evil designs are striving, as it is said, to array against us a fleet of many great armed ships, you will straitly prohibit and effectually prevent your subjects from in any way hiring out or granting their ships of that sort to our said rivals, to our destruction; and from taking or sending their ships to places in our rivals' possession or power. And whenever it is in our power to gratify you [in a like case], may you write to us [as we are now writing to you]. Given at Newcastle-upon-Tyne on the 3rd day of November.¹

Rex nobili et potenti viro, Domino Comiti Hanonie, Hollandie, et Selandie, ac Domino Frisie, patri suo carissimo, Salutem et sincere dilectionis affectum. Ad publicam jam pervenit notitiam, et, ut credimus, vos non latet qualiter Scoti, inimici et rebelles nostri contra nos, superiorem dominum, et vassalum nostrum Edwardum regem Scotie, licet jura superioritatis nostre et successionis hereditarie ipsius Edwardi sint clarissima, de guerra contra nos et dictum vassalum nostrum perperam insurgere presumpserunt; et qualiter quidam querentes contra nos occasiones indebitas, sub colore ut dictis Scotis subveniant, magnam faciunt providentiam galearum et navium armatarum ad nos et regnum nostrum pro viribus expugnandum. Quamobrem nobilitatem vestram, quam semper et presertim in tam patente nostra justitia speramus invenire nobis propitiam et faventem,

¹ In *Harl. MSS.* 424, ff. 17 *seq.*, are transcripts of other records bearing upon the duties of neutrals: *Vasc.* 22 Ed. I, m. 1; *Aleman.* 23 Ed. I, m. 18 d; *Scot.* 1 Ed. II, m. 4 d; Cl. 5 Ed. II, m. 29 d; Cl. 6 Ed. II, m. 12 d; *Scot.* 12 Ed. II, mm. 8, 13; Cl. 13 Ed. II, m. 20 d; Cl. 16 Ed. II, mm. 10 d, 14 d, 18 d.

ex corde rogamus quatinus cum dicti nostri malivoli nitantur adhuc plures grossas naves et armatas contra nos, ut dicitur, providere, velitis si placet vestris subditis distinctius inhibere et facere cum effectu, ne naves suas¹ hujusmodi, in nostri perniciem, dictis nostris emulis locent aliquantulum vel concedant, nec ipsas ad partes vel potestatem eorum ducant ullatenus vel transmittant. Rescripturi nobis cum que facere poterimus vobis grata. Datum apud Novum Castrum super Tynam tertio die Novembris.

1337. Flemish ship with enemy goods on board given by the King, as good prize, to the master of his galley that captured her.—*Close Rolls*, 11 Ed. III, pt. 2, m. 32.

The King to his bailiffs of the town of Great Yarmouth, Greeting. In consideration of the activity and worth of our well-beloved William of Goseford,² who with others in a galley of ours bravely gave chase to a ship called the cog of Flanders, in which was the bishop of Glasgow and other Scottish enemies of ours, and after slaying some of our aforesaid enemies captured her; We, desiring to deal graciously with him on that account, have given him the aforesaid ship and all her apparel, which, as a capture from our enemies aforesaid, belongs to us. And therefore we command you that without delay you deliver to him, William, the [same] ship, which, as it is said, lies in the aforesaid harbour, together with all her apparel, to keep [for himself] as a gift from us. Witness, &c.

Rex ballivis suis ville Magne Jeremuthe, Salutem.

¹ 'Sui' in original.

² See p. 69, below. Cf. *Pip. Rolls*, 21 Hen. II, r. 13: Cuidam homini de Rua lx s. pro faciendo proficuo de navibus inimicorum Regis.

Considerantes strenuam probitatem dilecti nobis Willelmi de Goseford, qui una cum aliis in quadam galea nostra existentibus, quandam navem vocatam la cogg de Flandria in qua Episcopus Glascuensis et quidam alii inimici nostri de Scocia fuerunt viriliter insecutus fuit et navem illam quibusdam de inimicis nostris predictis interfectis cepit ; Volentes ipsum Willelmum eo pretextu prospicere graciose, dedimus ei navem predictam cum attilio et toto apparatu ejusdem ad nos ratione forisfacture inimicorum nostrorum pertinentem ; Et ideo vobis mandamus quod eidem Willelmo dictam navem que in portu predicto existit, ut dicitur, cum attilio et toto apparatu ejusdem sine dilacione liberetis habendum de dono nostro. Teste Rege apud Westmonasterium xx die Augusti.

1337. Spanish (friends') ships consorting with (Flemish) enemies, though good prize, restored out of grace ; their cargoes being detained for further order.—*Close Rolls*, 11 Ed. III, pt. 2, m. 15.

The King to the mayor and bailiffs of Sandwich [sends] Greeting. Whereas, because the masters and mariners of certain ships of Spain, having on board diverse goods and merchandise, altered their course from Spain towards the parts of Flanders, consorting with our enemies there, and on their return voyage, in company with some ships of Flanders, in hostile fashion attacked some ships of [this] our realm and our lieges on board them, [the aforesaid Spanish ships] were captured by the men of our fleet, and put under arrest, and are still kept under arrest in our town [of Sandwich] aforesaid ; And now the aforesaid masters have made urgent prayer to us that we, of our grace, should make provision for their pardon, and for the delivery to them of their ships and goods,

so that they may return to their own country ; Now we, in our regard for the most serene Prince, the King of Spain, our dearest kinsman, desiring to deal graciously with the aforesaid merchants, command you that, although the said ships and goods ought, as we understand, of right to belong to us, of our special grace, you cause the aforesaid ships so arrested, and their masters and mariners, if they have for the aforesaid reason been placed under any kind of arrest, to be at once liberated, and that the ships be delivered to their masters—that is to say, each ship, together with her armour, clothing, chests, and apparel, to her own master ; and that you permit the masters, without hindrance, to return with their ships to their own country. Nevertheless, we will that you cause the cloths, goods, and other merchandise captured in the aforesaid ships, and now remaining under arrest, to be kept in safe custody until we are more fully informed touching this matter, and you receive our further order thereupon. Provided, nevertheless, that such portion of the cloths and merchandise as you in your discretion think fit shall be delivered by you to the said masters and mariners for their sustenance until they arrive in their own country. Witness, &c.

Rex Maiori et Ballivis de Sandwico, Salutem. Cum quedam naves de Ispania, pro eo quod magistri et marinarii earundem cum navibus illis ac diversis bonis et mercimoniis in eis existentibus ad partes Flandrie se diverterunt et cum inimicis nostris ibidem communicarunt de eisdem, ac cum quibusdam navibus de Flandria redeuntibus navibus regni nostri et fidelibus nostris in eis existentibus armata potencia insultaverunt, per homines de flota nostra capte fuissent et arestate, et adhuc sub aresto huiusmodi in portu ville predictae detineantur ; Ac jam prefati magistri nobis ad instantia supplicaverunt ut ipsorum

indempnitati et navium ac bonorum suorum predictorum deliberacioni, ita quod ad partes suas proprias redire possint graciose providere curaremus; Nos volentes cum prefatis mercatoribus, quamquam dicte naves et bona vigore juris ad nos deberent ut accipimus pertinere, contemplacione serenissimi principis Regis Ispanie consanguinei nostri carissimi agere graciose, vobis mandamus quod naves predictas sic arrestatas ac magistros et marinarios earundem, si sub aliquo arresto ea de causa detenti fuerunt, sine dilacione dearestari, et ipsis magistris naves illas, videlicet cuilibet eorum navem suam una cum armaturis robis cistis ac attiliis navium earundem liberari faciatis de gracia nostra speciali, et ipsos cum navibus illis ad partes suas proprias absque impedimento transire permittatis; Volumus tamen quod pannos bona et alia mercimonia in navibus predictis capta et sub arresto detenta adhuc salvo et absque distraccione aliqua custodiri faciatis, quousque super negocio predicto fuerimus plenius informati vel aliud a nobis inde habueritis in mandatis, hoc tamen excepto, quod aliqua pars pannorum et mercimoniorum illorum eisdem magistris et marinariis pro sustentacione sua quousque ad partes suas proprias venerint per vos liberetur prout juxta discrecciones vestras fore videritis faciendum. Teste Rege apud Thame quinto die Novembris.

1341. Action in the Exchequer Court touching enemy goods detained by the captors, and claimed by the King. The ship had been given by the King to the captor.¹—*Exchequer Plea Rolls*, 14 and 15 Ed. III, m. 13 d.

William de Goseford, Thomas de Drayton, Walter atte Sonde, and Peter Crescy were attached to make answer to Ambrose of Newburgh in an

¹ See above, p. 66.

action claiming that they, together with Robert Elys, who does not appear, should make good to the King 73*l.* 13*s.* 3*d.*, being the value of certain goods and chattels taken possession of by them, &c. And the said Ambrose appears in person, and the aforesaid William, Thomas, Walter, and Peter [appear] by their attorney. And whilst he, Ambrose, says that, whereas he had been lately deputed by the King's commission in that behalf to take into the King's hand divers goods and chattels of certain of the King's enemies that lately were in a ship called the cog of Flanders, and he, Ambrose, in virtue of that commission, had, at the town of Great Yarmouth, seized into the King's hand goods and chattels to the value of 53*l.* 1*s.* 3*d.*, part of the goods and chattels of the aforesaid enemies—that is to say, goods of the value of 39*l.* 14*s.* found in the house of the aforesaid William, goods of the value of 12*l.* 7*s.* 3*d.* found in the house of the aforesaid Thomas, and goods of the value of 20*s.* found in the houses of the aforesaid Walter and Peter ; and by an Indenture made between them, dated at Great Yarmouth on the 30th day of September in the eleventh year of the present King, which is here in court, had delivered the same goods and chattels to them, William, Thomas, Walter, and Peter severally, so that they should make satisfaction to the King, and discharge him, Ambrose, of his liability to the King ; and for these goods and chattels, of the value of 53*l.* 1*s.* 3*d.*, he, Ambrose, is still liable to the King, because they, William, Thomas, Walter, and Peter have failed to discharge him therefrom ; and, by reason of the delivery by him to them of the goods, they ought to have discharged, and are bound now to discharge him, Ambrose, as against the King ; but they have

failed as yet to discharge him, to his grievous hurt.

And the aforesaid William, Thomas, Walter, and Peter appear by their attorney, and say that they quite agree that they severally received the said goods and chattels, to the value of 53*l.* 1*s.* 3*d.*, by Indenture as aforesaid ; but they say that they ought not to answer for those goods and chattels to the King, or for the value of them, or to be charged therewith, because by the command of John de Ros, the Admiral of the King's northern fleet, a short time back, they captured in war the aforesaid ship on her passage from Zealand to Scotland, together with the aforesaid goods and chattels in her, and, according to the law of the sea heretofore prevailing and recognised, and by the direction and with the assent of the said Admiral, they severally kept them for their own use, and still so keep them. And they pray the court to decide whether or no they ought to be charged to answer to the King for those goods and chattels so captured at sea in time of war, &c. And he, Ambrose, says that, inasmuch as they, [William, Thomas, Walter, and Peter,] do not deny the possession of the aforesaid goods and chattels, or that such goods and chattels to the value of 53*l.* 1*s.* 3*d.*, came to their hands by the delivery of them by him, Ambrose, in manner aforesaid, he prays for judgment, &c. And because the court desires to consider more fully upon the premises before, &c., a day is fixed, &c. And upon the day fixed the aforesaid parties appear, and seek judgment, &c. And after diligent perusal and examination of the pleadings, and further deliberation between the Treasurer and Barons, it was decided that the aforesaid William, Thomas, Walter, and Peter should dis-

charge the said Ambrose from his liability to the King in respect of the said 53*l.* 1*s.* 3*d.*, the value of the goods and chattels so received from him, Ambrose, by them respectively; and that by reason of the delivery¹ of them by him and by reason of other the premises they, in order that he, Ambrose, be so discharged, should be charged with them and their value to the King.

Willelmus de Goseford, Thomas de Drayton, Walterus atte Sonde, et Petrus Crescy, attachiati fuerunt ad respondendum Ambrosio de Novo Burgo de placito quod ipsum acquietent versus Regem, simul cum Roberto Elys, qui modo non venit, de lxxiiij li. xiiij s. iij d., de precio quorundam bonorum et catallorum per ipsos occupatorum etc. Et dictus Ambrosius, in propria persona sua, et predicti Willelmus, Thomas, Walterus, et Petrus, per eorum attornatum veniunt. Et unde idem Ambrosius dicit quod, cum ipse nuper per commissionem Regis ei inde factam, inter cetera in eadem commissione contenta, assignatus fuisset ad capiendum in manum Regis diversa bona et catalla quorundam inimicorum Regis in quadam navi vocata la cogge de Flandria nuper existentia, idemque Ambrosius, pretextu commissionis illius, bona et catalla ad valenciam liij^{li} xv^d de bonis et catallis, que fuerunt predictorum inimicorum, apud villam Magne Jeremuthe in domibus videlicet predictorum Willelmi ad valenciam xxxix^{li} xiiij^s, Thome ad valenciam xij^{li} vij^s iij^d, Walteri et Petri ad valenciam xx^s, inventa, in manum Regis cepisset, et eadem bona et catalla eisdem Willelmo, Thome, Waltero, et Petro, ad satisfaciendum inde domino Regi, et dictum Ambrosium versus Regem acquietandum, per quandam Indenturam inter eos inde confectam, et hic in curia residentem, cujus datum est apud Magnam Jeremutham xxx^o die Septembris anno xj Regis hujus, singillatim liberasset; de quibus quidem bonis et catallis, ad valenciam liij^{li} xv^d predictorum, idem Ambrosius, eo quod iidem Willelmus, Thomas, Walterus, et Petrus,

¹ 'Concessionis.' The sense seems to be as above.

ipsum inde non acquietaverant versus Regem, oneratus existit, et de quibus prefati Willelmus, Thomas, Walterus, et Petrus, ratione liberationis predictæ, ipsum Ambrosium versus Regem acquietasse debuerunt et acquietare tenentur, et eum inde non acquietaverunt, ad grave dampnum ipsius Ambrosii, etc.

Et predicti Willelmus, Thomas, Walterus, et Petrus per eorum attornatum veniunt, et bene concedunt quod dicta bona et catalla ad valentiam liij^{li} xv^d predictorum a prefato Ambrosio per Indenturam predictam particulariter ut predictum est receperunt, set dicunt quod de bonis et catallis illis, nec de pretio eorundem, versus Regem onerari, neque dictum Ambrosium inde acquietare non debent; quia dicunt quod ipsi pretextu mandati Johannis de Ros, tunc Admiralli flote Regis in partibus borealibus, navem predictam in velando de partibus Zelandie versus partes Scotie, simul cum bonis et catallis predictis in eadem navi existentibus, de guerra nuper ceperunt, et eadem bona et catalla, sic de guerra capta et perquisita, secundum legem maritimam hactenus usitatam et approbatam, ex assignatione et assensu dicti Admiralli, tanquam catalla sua propria sibi ipsis separatim tenuerunt, et adhuc tenent, prout de jure et secundum legem predictam facere debent. Et petunt considerare curiam, si de bonis et catallis illis sic de guerra super mare captis et perquisitis versus Regem onerari debeant, etc. Et idem Ambrosius dicit, quod ex quo non dedicunt occupationem bonorum et catallorum predictorum, nec quin eadem bona et catalla, ad valentiam eorundem liij^{li} xv^d, ad manus suas ex liberatione ejusdem Ambrosii in forma predicta devenerint, petit inde judicium, etc. Et quia curia vult plenius deliberare super premissis antequam, etc. [*In common form*] . . . Ad quem diem partes predictæ veniunt et petunt judicium, etc. Et viso et diligenter examinato processu isto, habitaque inter Thesaurarium et Barones deliberatione pleniori, Consideratum est quod predicti Willelmus, Thomas, Walterus, et Petrus dictum Ambrosium acquietent versus Regem de dictis liij^{li} xv^d pro bonis et catallis sic per ipsos de

eodem Ambrosio particulariter receptis ; set quod inde in exonerationem ejusdem Ambrosii versus Regem onerentur pretextu concessionis et aliorum premissorum.

1346. Petition of Robert de Morley, Admiral, that William Hefoul may be pardoned for piracy, in consideration of his having equipped a ship for the King's service.—*Ancient Correspondence*, Vol. 40, No. 14.¹

Honour and reverence. Most dear cousin ; Whereas William Hefoul, of Bawdsey, has well and sufficiently equipped his ship, called the cog John, of 100 tons burden, with armed men and other necessities for war, and has victualled and furnished her at his own charges for two months, intending to go forthwith to sea in our company, in the service of our lord, the King, and in defence of the realm ; may it please you, most dear Sire, to grant to the said William a pardon in the matter of the galley and the goods captured and found in her. Farewell, most dear Sire. Written at Harwich, the 19th day of July.

By ROBERT DE MORLEE.

Honneurs et reverences. Treschier Sire ; Come William Hefoul de Baudeseye ad vitaillee bien et sufficalment apparraillee sa nief appelle le cog Jon', de la charge

¹ *Ibid.* Nos. 10 to 13 B are similar petitions. So in 1294 one accused of piracy was liberated on condition of his serving at sea (*Vascon Rolls*, 22 Ed. I, m. 13 d). The naïve and successful petition of William Morfote, a convicted pirate and late member for Winchelsea, in 1435, is mentioned by Mr. Oppenheim (*Administration of the Navy*, p. 18).

de C toneux, ove gentz armees et altres necessaires a fourme de guerre, estoffee et garnyee pour deux moys a ces propres costages desmesnes, daler en notre compaignie sur la meer en ceste presente, et en service notre seigneur le Roi, et en defence du Roialme, Vous plese, treschere Sire, graunter au dit William chartre de pardoun sur la Tarrite et biens prises en mesme icele et trovetz. Adieu, trescher Sire. Escrypt' a Herewiz le xix jour de Juyl.

Per ROBERT DE MORLEE.

1346. Order of the King that freight should be paid upon enemy (Normans') goods captured in a friend's (Spanish) ship, and that the ship with the Spanish goods in her should be restored.—*Close Rolls*, 20 Ed. III, pt. 1, m. 24 d.

The King to his well-beloved and trusty Thomas de Ferrariis, keeper of his islands of Guernsey, Jersey, Sark, and Alderney, or to his lieutenant, Greeting. Samiatus Dargelos, master of a ship called the St. Mary of Fontarabia, in the kingdom of Spain, has come before us, and made urgent supplication, that whereas he, with his aforesaid ship laden with wines of certain Normans, our enemies, [lately] came to our island of Guernsey, aforesaid, towards the parts of Normandy, when divers of our men-at-arms, and others of our garrison of Castle Cornet, in the same island, in the night-time attacked the said ship on her passage thither, and after her master and mariners had fled from her in a boat in fear of their lives, took her, together with the wines and other things in her, to the said castle, and there still keep her under arrest; [and he prays us] that we be pleased to order that his

said ship, and three pipes of wine and other things belonging to him and the mariners, be restored to him, the master, and that freight upon the wines belonging to the Normans be paid to him. Now We, regarding the alliance between us and the mighty prince, the King of Spain, lately entered into and affirmed, and desiring on that account to treat his subjects, wheresoever they may be within our dominions, with favour and in good faith, as if they were our own, command you that, after inspecting the documents or charter-parties touching the aforesaid freight, if any such there be, and after detaining in our hands the said wines of the Normans, and after payment to the master of the freight for the wines, you cause the said ship, three pipes of wine, and other things belonging to the said master and mariners and found in the ship, to be without any delay or difficulty restored to him, the master ; so that the treaty of friendship entered into as aforesaid be not, by delay in making restitution, infringed. And our will is, and, at the same time, we straitly charge you, that you cause public notice to be given, at such places in the aforesaid islands as seems to you expedient, on our behalf, that no one belonging to the islands or to the garrison aforesaid, and that none of our subjects, do any hurt, either on land or sea, to the subjects of the aforesaid King, our ally, either in their persons or their goods ; and this on pain of severe punishment from us ; and that, when they come to the islands, they be received and treated with kindness. In witness, &c.

Rex dilecto et fidei suo Thome de Ferrariis, custodi insularum suarum de Guerneseye, Jeresie, Serk, et Auren-

eye, vel ejus locumtenenti, Salutem : Accedens ad nos Samiatus Dargelos, magister navis vocate la Seinte Marie de Fonte Drabie,¹ de regno Ispannie, nobis instantius supplicavit quod, cum ipse cum navi sua predicta vinis quorundam hominum hostium nostrorum de Normannia onerata, juxta dictam insulam nostram de Guerneseye venisset ad partes Normannie, diversi nostri homines ad arma et alii de municione castri nostri de Cornet, in eadem insula, dictam navem sic venientem noctanter, prefato magistro et marinariis navis illius timore mortis in quodam batello confugientibus, invaserunt, dictamque navem cum vinis et aliis rebus in ea existentibus ad dictum castrum duxerunt, et adhuc detinent sub aresto ; velimus eidem magistro dictam navem suam ac tres pipas vini et alias res suas et marinariorum eorundem proprias restitui, et frettum pro dictis vinis ipsorum hominum de Normannia solvi jubere : Nos attendentes alligacionem inter nos et magnificum Principem, Regem Ispannie, jam specialiter initam et firmatam, volentesque eo pretextu ipsius subditos infra potestatem nostram ubilibet tanquam nostros proprios cum favore et fiducia pertractare, Vobis mandamus quod visis cartis sive instrumentis si que de fretto habeant supradicto, retentisque penes nos dictis vinis eorundem hominum de Normannia, solutoque eidem magistro fretto pro vinis illis, eidem magistro dictas navem, tres pipas, et alias res predictorum magistri et marinariorum in eadem navi inventas indilate et sine difficultate aliqua restitui faciatis, Ita quod pro defectu celeris restitutionis hujusmodi contractum fedus amicie non rumpatur. Volumus etiam, vobis nihilominus injungentes, quod in insulis predictis, in locis ubi expedire videritis, faciatis ex parte nostra publice inhiberi ne quis de insulis seu municione predictis, aut alii nobis subjecti, sub gravi forisfactura nostra, prefati Regis alligati nostri subditis in terra vel in mari in personis seu rebus suis ullam inferant lesionem, set ipsos, cum ad eos declinaverunt, admittant benignius et pertractent. Teste Rege apud Westmonasterium xxviiij die Januarii.

¹ Sic.

1353. Extract from treaty of alliance made between Edward III and the King of Portugal and Algarbe; provisions as to captures made at sea.—*Treaty Rolls*, 31, m. 1 d.¹

Know all men . . . [*reciting the negotiations leading to the treaty*] . . . it is agreed as follows : First, that good accord and alliance by land and sea be held and affirmed between the parties aforesaid, to continue from the day of the making of these presents for fifty years to come ;² Also that none of the people [or] subjects of the said King of England and France do harm or injury, as regards their persons, or ships, merchandise, or other goods, to the people, merchants, mariners, or commonalties of the said sea coasts² and cities of Lisbon and Oporto ; and that none of the people, merchants, mariners, and commonalties of the sea coasts and cities aforesaid do harm or injury, as regards their persons, ships, merchandise, or other goods, to the people of England, Gascony, Ireland, or Wales ; and that none of the people or subjects of the one party assault or harm those of the other party, nor make alliance, or give aid or succour in any way to the enemies, opponents, or adversaries of the other party. Also it is agreed that the people, subjects, masters, [and] mariners of either party, of whatsoever condition they be, may surely, freely, and safely, go and pass by land and sea to all the coasts,¹ ports, cities, and towns of the other party, and to all other realms and parts, wheresoever they please, with their ships, great and small, and

¹ The French original is printed in Rymer v, 764. A similar treaty was entered into with Spain in 1351 ; Rymer v, 717.

² *Marimes*.

with all the merchandise on board them, of whatsoever country and people such merchandise may be ; and that all manner of debates, dissensions, and disputes that have arisen between, and all damage done to or by either party by or to the other, in time past, before the making of these presents, if any such there be, shall for ever cease and determine, without further suit or recovery sought ; and, if any injury or damage shall have heretofore been done by either party to the other, such injury or damage shall be reasonably and duly redressed by the lords and people of one or other of the parties ; and that the party which has received the damage shall be paid the expenses to which he shall have been put in suing the person who did the injury, and shall also have [restitution of] his goods ; and, in case [the wrongdoer] shall not have sufficient goods to make recompense, that his body be taken and justice done in person, at the suit of him who shall have sustained the loss. Also it is agreed that, if it shall happen that, during the continuance of this treaty any injury or damage shall be done by the people or subjects of the one party to [those of] the other, this treaty shall not on that account be broken, [and] recompense and redress shall be made by the lords and people of the one party and of the other, as is stated above. Also that, in case the King of England and France, or his people, capture from the enemy, whosoever he be, [any] town, castle, or port, and in that town, castle, or port there be found goods of the people, merchants, mariners, or commonalties of the sea coasts and cities aforesaid, or [any] ships in which there shall be found merchandise or other goods of the people, merchants, mariners, or commonalties aforesaid, that the said King of England and

France, or whosoever shall be his captain, shall cause search to be made for their goods, in whosesoever hands they shall be, and shall loyally do all in his power, according to the tenor of this treaty, to make restitution of the said ships' merchandise and goods to the people, merchants, mariners or others of the commonalty of the marine and cities aforesaid, provided that they swear they were not armed, or enemies of the said King of England and France, and have not given aid, succour, or comfort [to his enemies], and provided [also] that if any one of them were found armed, or gave aid, succour, or comfort to the said enemies of the said King of England and France, he lose his goods and his body; and that none (of the others) who loyally keep this treaty be injured by the captors. And so [if] the people of the said King of England and France shall seize at sea, or in port, any ships of his adversaries or enemies, and in the said ships shall be found merchandise or other goods of those of the sea coasts and cities aforesaid, that [then] the said goods and merchandise shall be taken to England and safely preserved until the merchants, to whom the same goods and merchandise belong, shall prove that the goods were theirs, and those of the sea coasts and cities aforesaid shall in like case do the same to the people and subjects of the said King of England and France.¹ Also that fishermen of the sea coasts and cities aforesaid shall be at liberty to come and fish freely and safely in the harbours of England and Brittany, and in all other places and ports to which they shall come, paying the [usual] dues and customs to the lords of the country. In witness, &c.

¹ The treaty of 1351 with Spain is to the same effect; Rymer v, 719.

1357. Letter from Edward III to the King of Portugal as to the restitution of recaptured goods condemned by the Admiral as prize, contrary, as alleged, to the above treaty (p. 78). *Translation*.¹—*Treaty Rolls*, 35, m. 11.

A ship of Portugal, with Portuguese goods on board, was captured by a Frenchman. The goods were afterwards recaptured from the French captors by an Englishman, and brought to England. There was war between England and France, but England and Portugal were at peace. The Admiral dismissed the claim of the original Portuguese owners to have their goods restored to them, and condemned them as prize to the English captors. Edward III declines to interfere with his Admiral's decision.

Illustrious Prince and dearest kinsman. We have received, with the affection due to them, several letters of your Highness recently sent to us, in which you have repeatedly and urgently requested that, in pursuance of the compact of friendship lately entered into between us, we should cause to be restored to certain merchants of yours some goods and merchandise of theirs, which, being in a ship of theirs called the San Salvador, were lately captured and spoiled from them at sea by Frenchmen, our adversaries, and afterwards forcibly taken from the Frenchmen by some of our people, [and this] mainly because our Admiral, before whom the claim for restitution of the goods was in legal form made, paid no regard to the compact [of friendship mentioned above], and, without due consideration, decided that the goods,

¹ The Latin original is printed in Rymer vi, 14.

being prize of war, ought not to be restored to your merchants aforesaid.¹ And, in order that we should be the more readily disposed to make such restitution, you set forth in your letters the terms of the alleged compact. Now your Serene Excellence may be well assured that we are ever ready, and are desirous, on our part, to keep, in all points, any compact entered into between you and us, and willingly, and more than willingly, to do justice to all merchants and others of your realm, who may come to us to seek it. But, after diligently weighing, on the one hand, the request of your Excellency, and, on the other, the urgent prayer of our people, made over and over again, to be allowed to enjoy quietly all goods lawfully captured by them in war from our adversaries; and, in our desire to do justice to both your and our own people, after inspecting the terms of the compact in this behalf made between you and us, which, to make the matter before us the more clear, we have caused to be here set down, and are as follows: 'That if our people capture at sea, or in port, any ships of our adversaries, in which are found any merchandises belonging to merchants of our realm, such merchandises shall be taken to England, and there kept in safety, until the merchants to whom they belonged shall have proved that they are theirs; and your people, in like case, shall do the same to our people.'² And

¹ This is, perhaps, the earliest allusion to the Admiral's court. It probably dealt at first only with matters of discipline; Edward II reproved his Admirals for allowing illegal captures—'transgressores illos, prout ad vos pertinet, nullatenus castigantes'; *Scotch Rolls*, 9 Ed. II, m. 4.

² The words in the treaty are: 'Si les gentz de dit Roi d'Engleterre et de Fraunce preignent en la meer ou en port

after long deliberation upon the premises with learned members of our council, it appears clearly that the aforesaid compact ought not to cover the goods so claimed by your merchants as aforesaid; especially since it clearly appears by the letters of your Excellency that those goods were spoiled by our adversaries, and were in their possession as their own proper goods, and therefore were altogether out of the possession of your merchants. And inasmuch as the goods, being, in point of real ownership and possession, at the time, goods of our enemies, were lawfully captured in open war by our people, they ought certainly to be deemed to be goods of our enemies at the time of such capture, and not goods of any one else, and that they ought to belong to our people, by whom they were captured, by right of war and by reason of the capture. Wherefore it is clear that an action for restitution lies for your merchants against those who spoiled them of their goods, and not against our people, who were not to blame for the spoil. And it is not just or consonant to reason that we should deprive our people of their right to the goods, which were goods of their enemies taken in open war. Therefore, if the premises are justly weighed, the true conclusion is, that the decision of our aforesaid Admiral against your said merchants in their claim so made before him, as is aforesaid, was not made without due deliberation, but was proper and reasonable. If, however,

nules niefs de ses adversaires ou enemys, et en les dites niefs soient trouvez marchandises ou autres biens de eux de la marisme et cites avantdites, soient les ditz biens et marchandises amesnez en Engleterre et sauvement gardes tanque les marchantz de queux mesmes les biens et marchandises serront eient provez que les biens sont leurs.'

it should happen that any goods, on their passage anywhere, in any ship of our enemies, in the possession and charge of merchants of yours, should be captured by our people at sea, or in any harbour, we will, according to the aforesaid compact, cause the same to be restored, without any difficulty being made, to your merchants; and we will in other matters comply with your wishes. Given in our palace of Westminster on the 29th day of April.

1361. Commission of oyer et terminer to try a case of robbery and murder at sea by the common law.—*Patent Rolls*, 35 Ed. III, pt. 1, m. 9 d.

The King to his well-beloved and trusty Robert de Herle, Constable of Dover Castle, and Warden of his Cinque Ports, and Admiral of all our navy, as well in the north as in the west, William de Thorp, William de Haldenn', John Clerk of Southampton, and Simon Mayn, Greeting. Inasmuch as we are given to understand that very many merchants, as well strangers as English, loaded at Nantes, in Brittany, a certain ship of John Goldbeter, John Salaman, both Englishmen, and Jakemart, a Flemyng, of the value of 500*l.*, of which Christian Roos of Sluys was master, with goods and merchandise of the value of 20,000*l.*, and were minded to take her, together with the aforesaid goods and merchandise, from there to Flanders, to make their profit thereon; and [afterwards] several malefactors, and disturbers of our peace, in the ships of William le Smale of Dartmouth, and other warlike ships, to no small number, assaulted in hostile manner

the said merchants' ship, as she was passing on the sea toward Flanders for the purpose aforesaid, and wickedly killed the said master and mariners and others on board her, to the number of 100 people; and brought her, loaded as she was, from thence to our port of Chichester, and there unloaded from her a great quantity of the goods and merchandise aforesaid; some of which they sold there, and the rest they took along the coasts of the counties of Sussex, Hampshire, Wiltshire, Dorsetshire, Devonshire, and Cornwall, to the westward, and there sold and dispersed, to the grievous hurt and contempt of us, and to the grievous loss of the aforesaid merchants, and against our peace. And if these crimes have been committed, we, being unwilling to let them pass without punishment, have appointed you, or any four, three, or two of you, of whom we will that the aforesaid Robert or William is to be one, our Justices to enquire by the oath of good and lawful men, as well mariners as merchants, who use the sea, and of other good and lawful men of the counties aforesaid, by whom the truth of the matter may be better known, touching the names of the aforesaid malefactors, who have committed the trespasses and evil doings aforesaid; and who can tell you more fully the truth as to when, how, and in what manner, and how much, of the goods and merchandise each of the aforesaid merchants had in the said ship respectively, and how much of the goods and merchandise, gold, or silver, the malefactors unloaded at each of the said ports, and to whom they sold or delivered it; and to whose hands the gold, silver, goods, and merchandise aforesaid came; and who afterwards harboured the aforesaid malefactors or gave them aid, favour, or counsel;

and about all other particulars and circumstances in any way relating to the premises ; and to hear and decide according to the law and custom of our realm all and singular the premises, whether in the [criminal] action that is ours, or in the action of the aforesaid merchants and others who had goods and merchandise in the said ship, and are minded to claim and sue for the same. And therefore we command that, on days and at places to be named, you, or four, three, or two of you, of whom one of you two, Robert or William, we will shall be one, hold inquisitions touching the premises, and that you hear and decide all and singular the premises in manner aforesaid. . . . [*And so forth, in common form.*]

Rex dilecto et fideli suo Roberto de Herle, Constabulario castri Dovorr', et Custodi Quinque Portuum suorum, ac Admirallo totius navigii regni nostri tam in partibus borialibus quam in partibus occidentalibus, Willelmo de Thorp, Willelmo de Haldenn', Johanni Clerk de Suthampton', et Simoni Mayn, Salutem. Quia datum est nobis intelligi quod quamplures mercatores tam alienigene quam indigene quandam navem Johannis Goldbeter, Johannis Salaman de Anglia, et Jakemart Flemyng, mercatorum, pretii quingentarum librarum, unde Christianus Roos de Lescluse fuit magister, diversis bonis et mercimoniis ad valentiam viginti millium librarum apud Nautes in Britannia carcarunt, et eam cum bonis et mercimoniis predictis abinde usque Flandriam, ad commodum suum inde faciendum, duxisse voluerunt, quamplures malefactores et pacis nostre perturbatores in navibus Willelmi le Smale de Dertemuth et aliis navibus guerrinis in non modico numero existentes, ipsam navem dictorum mercatorum supra mare versus Flandriam ex causa predicta velantem hostiliter invaserunt, et dictum magistrum et marinarios ejusdem navis et alios in ea tunc existentes, usque numerum centum personarum, nequiter interfecerunt, et predictam

navem secum abinde usque portum nostrum Cicestrie sic carcatam duxerunt et ipsam ibidem de quampluribus bonis et mercimoniis predictis discarcarunt, et ea ibidem vendicioni exposuerunt, et abinde per portus supra costeras maris comitatum Sussex', Suthampton', Wiltes', Dors', Devon', et Cornub' versus partes occidentales duxerunt, et residuum bonorum et mercimoniorum predictorum in eisdem portibus vendicioni exposuerunt et disperserunt, in nostri grave prejudicium et contemptum, et dictorum mercatorum grave dampnum, et contra pacem nostram. Nos, premissa, si perpetrata fuerunt, pertransire nolentes impunita, assignavimus vos quatuor tres vel duos vestrum, quorum alterum vestrum vos prefati Roberte et Willelme de Thorp unum esse volumus, Justiciarios nostros ad inquirendum per sacramentum proborum et legalium hominum, tam marinariorum quam mercatorum, mare transeuntium, et aliorum proborum et legalium hominum de comitatibus predictis, per quos rei veritas melius sciri poterit de nominibus malefactorum predictorum qui felonias transgressiones et malefacta predicta perpetrarunt, et ubi quando qualiter et quo modo, et quantum de bonis et mercimoniis unusquisque mercatorum predictorum in dicta navi mercatorum habuerunt per se, et quanti valoris, et de quanto de bonis et mercimoniis, auro, vel argento, ad quemlibet dictorum portuum seu alibi in eisdem portibus dictam navem discarcarunt, et quibus personis ea vendiderunt seu liberarunt; et ad quorum vel cujus manus aurum argentum bona et mercimonia predicta devenerunt, et quis vel qui dictos malefactores postmodum scienter receptavit vel receptaverunt, seu eis auxilium favorem vel consilium ad hoc prebuerunt, et de omnibus aliis articulis et circumstantiis premissa qualitercunque contingentibus plenius veritatem, et ad premissa omnia et singula, tam ad sectam nostram quam predictorum mercatorum, et aliorum qui bona et mercimonia aliqua in dicta navi habuerunt, si inde conqueri vel prosequi voluerint audiend' et terminand' secundum legem et consuetudinem regni nostri; Et ideo vobis mandamus quod ad certos dies et loca quos vos, quatuor tres vel duo vestrum, quorum alterum vestrum

vos prefati Roberte et Willelme de Thorp unum esse volumus, ad hoc provideritis inquisitiones super premissis faciatis, et premissa omnia et singula audiat et terminetis in forma predicta. . . . [*In common form.*]

1361. Revocation of the above commission.
Close Rolls, 35 Ed. III, m. 28 d.

The King to his well-beloved and trusty Robert de Herle and Robert Belknap, Greeting. Although we appointed you, and certain others of our lieges, to hear and determine according to the law and custom of our realm divers trespasses and felonies committed and perpetrated, as it was said, by certain of our subjects and others, upon the sea, against certain merchants, as well English as foreign, who were in a ship of John Goldbetere and John Saleman, of England, and Jakemart, a Flemyng, merchants, of which ship Christian Roos of Sluys was master, being loaded at Nantes, in Brittany, with divers goods and merchandises, to the value of 20,000*l.*, to be taken from thence to Flanders; Nevertheless because, after further consideration of the matter by us and our council, it appears that, according to the law and custom of our realm, felonies, trespasses, or injuries done upon the sea ought not to be dealt with or determined before our Justices at the common law, but before our Admirals according to the maritime law; Therefore we, desiring to do what is just, have caused our commission so made to you [as aforesaid] to be recalled; and we command that you wholly abstain from executing in any way our commission so made, or to be made, to you, and that you in no way, and by no means intermeddle therewith. In witness, &c.

Rex dilectis et fidelibus suis Roberto de Herle et Roberto Belknap, Salutem. Licet nos assignavimus vos, et quosdam alios fideles nostros, ad diversas transgressionem et felonias per quosdam subditos nostros et alios supra mare quibusdam mercatoribus, tam alienigenis quam indigenis, existentibus in quadam navi Johannis Goldbetere, Johannis Saleman de Anglia, et Jakemart Flemyng, mercatorum, unde Christianus Roos de Leschluse magister extitit, et que navis diversis bonis et mercimoniis ad valentiam viginti millium librarum apud Nautes in Britannia carcata fuit, exinde usque Flandriam ducenda, illatas et perpetratas, ut dicebatur, audiendas et terminandas secundum legem et consuetudinem regni nostri; Quia tamen, negotio hujusmodi coram nobis et consilio nostro jam noviter deducto, videtur esse consonum dictis legi et consuetudini quod felonie, transgressionem, seu injurie, supra mare facte, non coram Justiciariis nostris ad communem legem, sed coram Admirallis nostris, juxta legem maritimam deducantur et terminentur; Volentes fieri quod est justum, dictam commissionem nostram sic vobis factam duximus revocandam; Et ideo vobis mandamus quod, executioni alicui de dicta commissione sic vobis facte et faciende omnino supersedentes, vos inde in aliquo nullatenus intromittatis. Teste Rege apud Westmonasterium xj die Maii.

1371. Order to the bailiffs of Shoreham to restore to their English owners goods captured by pirates, in accordance with 27 Ed. III, st. 2, c. 13.—*Close Rolls*, 45 Ed. III, m. 17 d.¹

The King to his bailiffs of Shoreham, Greeting. Whereas in the Statute of the Staple,² passed at Westminster in the 27th year of our reign, it is amongst other things enacted that if any merchant,

¹ Cf. Cl. 45 Ed. III, mm. 25, 26.

² 27 Ed. III. st. 2, c. 13.

native or foreign, shall be robbed of his goods at sea, and the goods so robbed come to any place within our realm and land, and the merchant seeks to sue for recovery of the goods, he shall be admitted to prove that they are his by [producing] his marks or charterparty or cockett, or by [the word of] good and lawful merchants, native or foreign, and that upon such proof the goods shall be delivered to the merchants without any suit at common law. And now on behalf of William Culham, merchant of London, and executor of the will of the late Roger Estfeld, merchant of London, petition is made to us that whereas 35 bales of woad, 6 bales of alum, 4 cases of soap, 3 tuns of flax, and 14 reams of paper, of the value of 140*l.*, being the goods partly of the aforesaid William and partly of the King, were robbed by certain pirates, and landed at the said town of Shoreham, and were arrested by you at the suit of the said William, and are still in your hands; And although he has many times sued to have the aforesaid goods out of your hands, and you nevertheless have hitherto delayed to hand them over to the aforesaid William, to the grievous damage of the said William, and to the manifest delay of the execution of the will of the aforesaid Roger, and against the form of the statute aforesaid. [Wherefore] we, desiring that the aforesaid statute be strictly observed, have determined to order that the aforesaid goods and merchandise be delivered to the aforesaid William. And because John Phelipot of London and the aforesaid William, being duly appointed thereto in our Chancery, have given bail before us in the amount aforesaid to account to all persons claiming title to the aforesaid goods and merchandise, if it should happen that they be adjudged to the

claimants, We direct you that, if the aforesaid William is able by the marks, or by the charter-party or cockets, or by [the word of] good and lawful merchants, to prove that the said goods and merchandise so arrested by you belonged to William and Roger, then you cause the goods and merchandise without delay to be delivered to him, William, or to his attorney in this behalf, according to the form of the statute aforesaid ; and at your utmost peril fail not of this. Witness, &c.

Rex ballivis ville de Shorham, Salutem. Cum in statuto de stapulis apud Westmonasterium anno regni nostri Anglie vicesimo septimo edito inter cetera continetur, quod si aliquis mercator privatus vel extraneus de bonis suis supra mare depredatus fuerit, et bona illa sic depredata ad aliquas partes infra regnum et terram nostram devenerint, et pro dictis bonis recuperandis prosequi voluerit, recipiatur ad probandum dicta bona esse sua per signa vel per cartam vel cokettum sua vel per bonos et legales mercatores privatos vel extraneos, per hujusmodi probationes sint bona illa deliberata mercatoribus absque aliqua secta facienda ad communem^r legem ; Ac jam ex parte Willelmi Culham, mercatoris Londoniensis, et executoris testamenti Rogeri Estfeld, nuper mercatoris Londoniensis, nobis est supplicatum quod cum triginta et quinque bale wayde, et sex bale de alum, quatuor case de sope, tria dolia cum lino, et quatuordecim remi de papiro, precii centum et quadraginta librarum, de bonis et mercandisis tam ipsius Willelmi quam de bonis et mercandisis prefati Rogeri, supra mare per quosdam piratas depredata et ad terram ad dictam villam de Shorham posita fuerunt, et per vos ad sectam ipsius Willelmi arestata, et in manibus vestris adhuc existant ; Et licet ipse pro bonis et mercandisis predictis extra manus vestras habendis pluries prosecutus fuerit, Vos tamen bona et mercimonia predicta prefato Willelmo hucusque deliberare distulistis, in ipsius Willelmi grave dampnum, et executionis testamenti predicti Rogeri

retardacionem manifestam, et contra formam statuti predicti, Velimus bona et mercimonia predicta eidem Willelmo liberari jubere ; Nos volentes statutum predictum inviolabiliter observari, Et quia Johannes Phelipot de London et prefatus Willelmus in Cancellaria nostra personaliter constituti manuceperunt coram nobis sub pena summe predicte de respondendo quibuscunque personis jus in bonis et mercandisis predictis habere vendicantibus, et de satisfaciendo eis de bonis et mercandisis illis, si bona et mercandise illa eis adjudicari contigerit, Vobis precipimus quod si predictus Willelmus per signa aut per cartas vel literas de coketto seu per bonos et legales mercatores probare poterit dicta bona et mercimonia per vos sic arestata fuisse ipsorum Willelmi et Rogeri, tunc eidem Willelmo vel ejus in hac parte attornato bona et mercimonia illa sine dilatione deliberari faciatis juxta formam statuti predicti, et hoc sub incumbenti periculo nullatenus omittatis. Teste Rege apud Westmonasterium xxij die Augusti.

1372. Ships convoying the wine fleet to have 2s. on every tun arriving safely in England, less what they make by trading themselves, or by capture from the enemy.—*Patent Rolls*, 46 Ed. III, m. 20.

The King to all and singular sheriffs, mayors, bailiffs, and officers, owners, masters, and mariners of ships, and other his lieges to whom [these presents shall come], Greeting. Know ye that by the advice of our Council we have ordained that fifteen ships and five barges furnished for war, of which five ships and one barge are of Bayonne, and ten ships and four barges are of England, shall, for the security and safe passage of all merchants who at this time of vintage are minded to set forth for Gascony, there to buy wines to be brought to our realm of England, sail with the merchants

as often as they wish to make the voyage out or home, in company with our well-beloved and trusty Admirals at sea, Philip de Courteney and William de Nevill; [And we] desiring that the owners of the said fifteen ships and five barges should, by way of recompense for their labour and the expenses they incur in performing such convoy duty, have and receive for every tun of wine that is thereby safeguarded, and under their convoy comes to our realm of England, when the wine arrives safely in any port of our realm, [the sum of] two shillings; Provided nevertheless that, if the said fifteen ships and five barges, or any of them, capture at sea any goods or merchandise of the enemy, or if they make or get any profit or gain by reason of their voyage, either by way of freight for wine or otherwise in the way of merchandising or in any other way, then so much shall be deducted from the two shillings as the goods so acquired, or the profits so made, shall amount to, rateably, according to the share of those who make such gain and profit.

Rex universis et singulis vicecomitibus maioribus ballivis ministris dominis magistris et marinariis navium ac aliis fidelibus suis ad quos etc. Salutem. Sciatis quod de avisamento consilii nostri ordinavimus quod quindecim naves et quinque bargie de guerra arraiate, quarum quinque naves et una bargia de Baion et decem naves et quatuor bargie de Anglia existant, in comitiva dilectorum et fidelium nostrorum Philippi de Courteney et Willelmi de Nevill, Admirallorum nostrorum supra mare, pro securitate et salva conductione omnium mercatorum et navium qui ad partes Vascon' pro vinis ibidem emendis et in regnum nostrum Anglie ducendis presenti tempore vendagii proficisci voluerint, cum ipsis mercatoribus huc et illuc quotiens necesse fuerit pertransibunt; Volentes quod domini dictarum quindecim navium

et quinque bargiarum, pro labore et expensis suis quos circa conductionem hujusmodi apponi fecerint, habeant et capiant de quolibet dolio vinorum que sic per conductionem suam salvata fuerint et in comitiva sua in regnum nostrum Anglie venerint, postquam in aliquo portu infra dictum regnum nostrum salvo applicuerint, duos solidos; Ita tamen quod si dicte quindecim naves et quinque bargie, vel earum aliqua, bona seu mercandisas de inimicis supra mare per conquestum perquisierint, aut aliquod aliud proficuum vel commodum, ut in frettagio vinorum seu alias via mercandisandi seu quocunque alio modo occasione viaggi sui fecerint vel habuerint, tunc tantum de dictis duobus solidis quantum dicta bona sic acquisita vel proficua illa attingunt in portione ipsorum qui commodum et proficuum hujusmodi sic habuerint deducatur juxta ratam. In cujus etc. Teste Rege apud Westmonasterium xiiij die Octobris.

1373. Order to the lieutenant of the Admiral to release from arrest a Portuguese ship bearing a letter of safe-conduct from the Duke of Lancaster, together with goods on board belonging to her master and other friends; enemy goods to be detained until further order; other Portuguese ships to be allowed to pass on their voyage on like terms.—*Close Rolls*, 47 Ed. III, m. 39; the Latin original is printed in Rymer, vii, p. 3.

The King to his well-beloved Benedict of Bodellsall, lieutenant of our well-beloved and trusty Philip de Courteney, Admiral of our western fleet in the port of Dartmouth, Greeting. We have received a grievous complaint of Peter of

Doyquina, master of a ship called La Macie Sterlyng, and other masters of ships of the town of Guatary,¹ lieges of our dearest son, John King of Castile, and Leon, Duke of Lancaster, stating that whereas, after the death of Peter, late King of Spain, they had continuously dwelt in Portugal and were opposed to Henry Bastard of Spain, our adversary, and our said son sent to the said shipmasters letters requesting them to come into his allegiance, And the same shipmasters, in obedience to the command of their said lord, and so that they might the better be able to come under his allegiance, freighted their ship aforesaid with wines and divers other merchandises, for a voyage to Flanders and St. Malo, intending, as soon as they had made an end of their trading, to come under the allegiance of our said son and there faithfully to dwell. And the said shipmasters on their passage by sea, off the coast near Dartmouth, met with divers ships and barges of our realm of England, and the shipmasters, trusting in the security [they expected to enjoy from their allegiance to] our dear son, of their own free will put into the port of Dartmouth with their ships and barges aforesaid. Whereupon the masters and merchants of the Macie Sterlyng, after entering Dartmouth, were arrested, together with their ship and the goods and merchandise in her, and remain under arrest, and [this] although they plainly produced the letters [of safe conduct] of our son and of the King of Portugal and of Count Don Ferrando in the matter. Wherefore they have made suit to us that we order that they be freed from arrest, and that their ship merchandise and goods be restored. And we, desiring to deal

¹ In Spain, near St. Sebastian.

graciously with them, Command you that if, after viewing the said letters of our son and of the King of Portugal and of Count Don Ferrando, you are fully satisfied that these masters and merchants are of our friendship as aforesaid, then they be freed from arrest without delay, and that you cause to be restored to them their ship and their own goods and merchandise, and also the goods and merchandise of any other friends of ours that were arrested in the ship. Provided, nevertheless, that all goods and merchandise of our enemies that were found in the ship be at once put into safe and secure keeping, and be delivered to those to whom they belong.¹ Further we command that, without offering them any violence, you cause to be kept in safe custody certain other ships of Portugal that are about to pass to St. Malo,² of which ships Sebastian Johan, Martin Johan, and Machico are masters, should they come within your jurisdiction; and that you cause to be delivered to those to whom they belong all goods and merchandise of our enemies that are found in them, and that you allow the masters, with their own goods and with any other goods belonging to our friends, to pass without let wherever they wish to go. Moreover, we command you to cause to be kept safely and securely two ships of Portugal that have lately been captured by men of Dartmouth and Plymouth and taken to the said port of Dartmouth, with no foreigners on board, until we are by our council informed to whom the said ships of right belong. Witness the King, &c.

¹ *Semble*, the captors.

² Sancto Maloro.

1374. Safe-conduct for a Catalan galley, on condition that no enemy goods are carried, and that customs are paid.—
Patent Rolls, 48 Ed. III, pt. 1, m. 21.

The King to all and singular Admirals, captains, castellans, and their lieutenants, customers, wardens of ports and other places by the sea, sheriffs, mayors, bailiffs, ministers, and other our lieges and subjects, as well on land as at sea, to whom [these presents shall come], Greeting. Know ye that we have taken for safe conduct and special protection and defence at our hands the merchants of Catalonia, being subjects of the noble and powerful prince, the King of Aragon, on their passage through our domain and realm to Flanders in a galley of Catalonia called the St. Mary, whereof Bernard Esmeryk and Bartholomew Sunyer are masters, together with their goods and merchandise in the aforesaid galley, on condition nevertheless that they pay, as they are bound to, the customs, subsidies, and other moneys properly due upon their aforesaid merchandise, and that under colour of these presents no goods or merchandise belonging to our enemies be concealed or carried in the ship. And therefore we command that you cause no injury, let, damage, violence, hindrance, or harm to the same merchants of Catalonia, or to the masters or mariners of the aforesaid galley, as regards either their persons or their galley, or their goods or merchandise, on their passage with their goods and merchandise on board through our dominion and realm, on the condition, nevertheless, as is aforesaid; and that if any forfeiture

or injury be inflicted upon them, you cause it at once and without delay to be restored and set right; on the condition nevertheless that they duly pay, as they are bound to, all customs, subsidies, and other moneys due upon their aforesaid goods and merchandise; and so also that under colour of these presents no goods or merchandise of our enemies¹ are concealed in the aforesaid galley or in any way carried in her. In witness, &c.

Rex universis et singulis Admirallis capitaneis castellanis et eorum locum tenentibus custumariis custodibus portuum maris et aliorum locorum maritimorum vicecomitibus maioribus ballivis ministris et aliis fidelibus et subditis nostris tam supra mare quam per terram constitutis ad quos etc. Salutem. Sciatis quod suscepimus in salvum et securum conductum nostrum ac in protectionem et defensionem nostram specialem mercatores de Cateloigne, subditos nobilis et potentis principis regis Arragonie, versus partes Flandrie, cum una tarita de Cateloigne que vocatur la Seint Marie, unde Bernardus Esmeryk et Bartholomeus Snuyer sunt magistri, simul cum bonis et mercandis suis in tarita predicta existentibus, per dominium et potestatem nostra transeundo, hac vice tamen ita semper, quod custumas subsidia et alia denaria de mercandis suis predictis debita rationabiliter solvant, ut tenentur, et quod aliqua bona vel mercandise inimicorum nostrorum in tarita predicta colore presentium minime cooperiantur, nec in eadem ducantur quovis modo. Et ideo vobis mandamus quod eisdem mercatoribus de Cateloigne et magistris et marinariis tarite predictae versus partes predictas cum tarita predicta, ac cum bonis et mercandis suis in eadem existentibus, per dominium et potestatem nostra predicta transeundo, hac vice, tamen, ut predictum est, in personis, tarita, bonis, vel mercandis, predictis, non inferatis, seu quantum in vobis est ab

¹ Treaties with Genoa (1372), Flanders (1417), and Portugal (1436) contain a similar clause as to enemy goods.

aliis, inferri permittatis, injuriam, molestiam, dampnum, violenciam, impedimentum aliquod seu gravamen. Et, si quid eis forisfactum sive injuriatum fuerit, id eis sine dilatione debite corrigi et emendari faciatis; Ita tamen quod custumas, subsidia, et alia denaria, de mercandis suis predictis debita rationabiliter solvant ut tenentur; Et quod aliqua bona vel mercandise inimicorum nostrorum in tarita predicta colore presentium minime cooperiantur, nec in eadem ducantur quovismodo. In cujus, etc. Teste Rege apud Westmonasterium xvj die April.

1374. Commission of oyer and terminer in a case of robbery and slaying upon the sea; the procedure to be according to the common law and the maritime law¹.
Patent Rolls, 48 Ed. III, pt. 1, m. 2 d.

The King to his well-beloved and trusty William Latymer, Constable of his Castle of

¹ The form of this commission may be compared with that of 1361, which was recalled (pp. 84, 88); the reference to the maritime law is probably in consequence of what then happened. After 1361 commissions of oyer and terminer in cases of piracy, which before were common, seldom issued. As a legal term 'piracy' belongs to a later date. The Latin word is common from the first, but it was not always used in an evil sense. In 1309 wines are stated to have been captured 'more piratico'; in 1353 'pirate et alii inimici nostri' are spoken of (*Lettres de Rois*, ii, 32, 106); and in 1359 one Robert Blake, who robbed a ship at sea, is called 'pirata' (*Treaty Rolls*, 37, m. 8). But in the twelfth century ships in the service of William II are spoken of as 'piratae'—'jam mare munierat piratis' (Hoveden, 264 b); 'Anglici vero piratae qui curam maris a rege susceperant' (Brompton, 986); and in 1324 Edward II prepared for war 'Admirallos et piratas super mare constituendo' (Nicolas, i, 239). Before the latter part of the fourteenth century robbery at sea seems to have been dealt with in the King's courts as one and the same crime as

Dover and Warden of his Cinque Ports, John de Cavendish, his Chief Justice, William de Nevylle, the Admiral of his northern fleet, Thomas de Reynes, the lieutenant of the aforesaid Constable, William de Halden, Thomas de Shardelowe, Roger Digge, and William Horn, Greeting. Know ye, that we have appointed you, [or] seven, six, five, four, three, or two of you, to be our Justices to enquire by the oath of good and lawful men of the county of Kent, as well within liberties as without, by whom the truth of the matter may better be known, who the malefactors and disturbers of our peace were, who being in two cogs of Campen wickedly and craftily committed divers robberies, depredations, discords, and slayings of many of our lieges along the coasts of the aforesaid county; and when, how, and in what manner, and at whose instigation the aforesaid robberies, depredations, discords, and slayings, and very many other evils and injuries were done; and who afterwards knowingly harboured the said malefactors; and who they were who feloniously captured upon the sea three galleys of Genoa, Catalonia, and Naples, laden with divers goods and merchandises of certain merchants of our friendship, of Catalonia, Genoa, Naples, Florence, and Milan, and brought the aforesaid goods and merchandise, together with the galleys, within our dominion, and there carried off the goods and merchandise, so that proper restitution could not be made to the

robbery on land; and so of murder and assault. The records do not, to the present writer, appear to support the view insisted upon by some of the judges in *Reg. v. Keyn*, L.R. 2 Ex. D. 63, that piracy has from the first been recognised by the law of England as a crime distinct from robbery and murder on land.

merchants; and [we have appointed you] to ascertain more fully the truth touching all the particulars and circumstances in any way relating to the premises, and to hear and determine all the premises according to the law and custom of our realm of England and according to the law of the sea. And therefore . . . [*in common form.*]

Rex dilectis et fidelibus suis Willelmo Latymer Constabulario castri sui Dovorr' et Custodi quinque portuum suorum, Johanni de Cavendish Capitali Justiciario suo, Willelmo de Nevylle Admirallo flote navium versus partes boriales, Thome de Reynes locum tenenti predicti Constabularii, Willelmo de Halden, Thome de Shardelowe, Rogero Digge, et Willelmo Horn, Salutem. Sciatis quod assignavimus vos septem sex quinque quatuor tres vel duos vestrum Justiciarios nostros ad inquirendum per sacramentum proborum et legalium hominum de comitatu Kantie, tam infra libertates quam extra, per quos rei veritas melius sciri poterit, qui malefactores et pacis nostre perturbatores diversas roberias depredaciones sediciones ac interfectiones quamplurimum fidelium nostrorum et aliorum supra mare per costeras ejusdem in duobus coggis de Campe nequiter et dolose perpetraverunt, et quando et qualiter et quo modo et ad cujus vel quorum procuracionem roberie depredaciones sediciones ac interfectiones predictae et alia mala et incommoda quamplurima ibidem facta fuerunt, et quis vel qui dictos malefactores postmodum scienter receptavit vel receptaverunt, et eciam tres taritas de Janua Cate-loigne et Naples diversis bonis et mercandisis quorundam mercatorum de Cateloigne Janua Naples Florence et Melan de amicitia nostra existentium super mare felonice ceperunt, et bona et mercandisas predicta cum taritis predictis infra potestatem nostram duxerunt, et ea ibidem quominus restitucio congrua eorundem bonorum et mercandisarum prefatis mercatoribus fieri potest, elongarunt, et de omnibus articulis et circumstanciis premissa qualitercunque concernentibus plenius veritatem et ad

premissa omnia et singula secundum legem et consuetudinem regni nostri Anglie et legem maritimam audiendum et terminandum. Et ideo &c. [*in common form.*]

1375. Order that enemy goods are to be delivered to the captors, they paying freight to the shipmaster; and that friends' goods are to be restored to their owners.—*Patent Rolls*, 48 Ed. III, m. 17 d.

The King to his well-beloved Walter de Leicester, his serjeant-at-arms, Greeting. Whereas a ship of Sluys called the St. Anne, laden with 138 tuns of wine, two pipes being reckoned for a tun, has lately been captured at sea by Lord Le Despencer, and was brought to the port of Chichester; and of those wines 103 tuns belonged to the enemy, and 35 tuns to William the son of Christian Fourmer of Sluys, master of the aforesaid ship, and other merchants of Flanders his friends, as has been duly proved. And because, on the advice of our council, we will that the said 103 tuns of wine that belonged to the enemy be, without delay, delivered to those to whom they appertain,¹ and the ship, together with the 35 tuns of wine, to the aforesaid master; and further that due payment be made to the master for his freight of the 103 tuns, and that, if any goods belonging to the said Flemish merchants have been taken out of the ship and are in existence, they be restored to the master; We [therefore] have appointed you to [cause to] be delivered, without delay, to those to whom they appertain the said

¹ *Semble*, the captors, by grant from the King.

103 tuns of wine, and to the aforesaid master the said ship, together with the 35 tuns of wine, and also to [cause] restitution to be made to the said master of the other goods and merchandise belonging to the merchants that have been taken out of the ship, and to cause satisfaction to be made in manner aforesaid to the aforesaid master for his freight of the 103 tuns, as by our council has been more fully enjoined on you. And so we direct you to be diligent in the premises, and to carry them into execution in manner aforesaid. Moreover, by virtue of these presents, we give it in command to all and singular sheriffs, mayors, bailiffs, ministers and other our lieges, as well within liberties as without, that they obey, aid, and hearken unto you touching the premises, as often as they may be directed by you on our behalf to do so. In witness, &c.

Rex dilecto sibi Waltero de Leycestre, servienti suo ad arma, Salutem. Cum quedam navis de Lescluse, vocata la Seinte Anne, centum et triginta et octo doliis vini, duabus pipis computatis pro uno dolio, carcata, nuper per dominum le Despenser supra mare capta, et usque portum Cicestr' ducta fuisset; de quibus vinis centum et tria dolia fuerunt de bonis inimicorum nostrorum, et triginta et quinque dolia sunt de bonis Willelmi filii Cristians Fourmer de Lescluse, magistri navis predicte, et aliorum mercatorum de Flandria sociorum suorum, sicut sufficienter est probatum. Et quia de avisamento consilii nostri volumus quod dicta centum et tria dolia vini, que sic fuerunt inimicorum nostrorum, illis ad quos pertinent, et dicta navis cum dictis triginta et quinque doliis vini prefato magistro sine dilatione deliberentur, et etiam quod eidem magistro pro frettagio suo dictorum centum et trium doliorum competenter satisfiat, et, si aliqua bona dictorum mercatorum de Flandria extra dictam navem abstracta existant, eidem magistro restituantur, assignavimus te ad dicta centum et tria dolia

vini illis ad quos pertinent et dictam navem cum dictis triginta et quinque doliis vini prefato magistro sine dilatione deliberari, et alia bona et mercandisas ipsorum mercatorum extra dictam navem abstracta eidem magistro restitui, et predicto magistro pro frettagio suo dictorum centum et trium doliorum in forma predicta satisfieri faciend', prout tibi per consilium nostrum plenius est injunctum; Et ideo tibi precipimus quod circa premissa intendas et ea facias et exequaris in forma predicta. Damus autem universis et singulis vicecomitibus maioribus ballivis ministris et aliis fidelibus nostris, tam infra libertates quam extra, tenore presentium in mandatis quod tibi in premissis pareant intendant et respondeant quotiens per te fuerint super hoc ex parte nostra premuniti. In cujus, &c. Teste Rege apud Westmonasterium xviii die Maii.

1377. Grant of a ship of Normandy and her cargo to the captor, on his paying 200 marks to the King.¹—*Close Rolls*, 51 Ed. III, m. 10.

The King to his dear and faithful Michael de la Pole, Admiral of our fleet towards the North, Greeting. A petition has been presented to us on behalf of Robert de Selby, merchant, that whereas the master and mariners of a certain ship belonging to him, called the George, lately on her passage at our orders to the Thames had with the same ship captured by way of marque or reprisal a certain craier of Normandy laden with divers goods and merchandise, in consequence of very many goods and merchandise of his having, after the inception of the truce lately entered into by us and those of France, been

¹ *Seemle*, the captor, who had been robbed at sea by Normans during the truce, had no letters of reprisal.

captured by men of Normandy. And [whereas] they brought the said craier, together with all and singular the men, goods, and merchandise found in her, safely and securely to London, desiring to know our will in the matter ; We, having considered the premises, have decided to order that the craier, together with the men, goods, and merchandise in her, be delivered to the said Robert in part satisfaction of the damages and losses which he suffered as aforesaid during the truce. And by reason that the said Robert has paid to us, at the receipt of our Exchequer, two hundred marks, We, giving favourable ear to the aforesaid petition, command that you cause to be delivered to the said Robert, by indenture duly made between you and him, stating the quantity and nature of the goods and merchandise and their value, the said craier, together with the men and all the goods and merchandise in her, to be held by him in the way of marque and reprisal, in part satisfaction of his damages and losses aforesaid. In witness, &c.

Rex dilecto et fideli suo Michaeli de la Pole, Admirallo flote nostre navium versus partes boreales, Salutem. Ex parte Roberti de Selby mercatoris nobis est supplicatum ut cum magister et marinarii cujusdam navis ipsius Roberti vocate la George venientis nuper de mandato nostro ad aquam Thamisie cum eadem navi quandam craieram de partibus Normandie, diversis bonis et mercandisis carcatam, pro eo quod quamplura bona et mercimonia prefati Roberti per homines de partibus Normandie post captionem treugarum inter nos et illos de Francia nuper initarum supra mare capta fuerunt tanquam marcam vel reprisam cepissent, et eandem craieram, una cum hominibus bonis et mercandisis singulis in eadem inventis, usque London' salvo et secure duxissent, expectando scire voluntatem nostram in hac parte ; Velimus, consideratis premissis, craieram illam,

una cum dictis hominibus bonis et mercandisis in eadem craiera contentis, eidem Roberto in partem satisfactionis dampnorum et deperditorum que tempore dictarum treugarum sustinuit ut predictum est deliberari jubere. Nos, pro eo quod idem Robertus ducentas marcas nobis solvit ad receptam scaccarii nostri, supplicationi predicte favorabiliter annuentes, vobis mandamus quod dictam craieram, una cum hominibus ac omnibus bonis et mercandisis in eam existentibus, eidem Roberto, per indenturam continentem que et cujusmodi bona et mercandise illa fuerint et cujus valoris inter vos et ipsum Robertum modo debito conficiendam, deliberari facias, habendam tanquam marcam sive reprisam in partem satisfactionis dampnorum et deperditorum suorum predictorum. Teste Rege apud Westmonasterium xxix die Aprilis.

1378. Order by the King that freight be paid upon (French) enemy goods captured in (Flemish) friends' ships.—*Close Rolls*, 1 Ric. II, m. 15.

The King to the same,¹ Greeting. We command you that without delay you compel certain men of the aforesaid [Cinque] Ports, who bought some goods and merchandise of our enemies of France, that were lately captured in war in ships of Flanders by our well-beloved and trusty Thomas de Percy, Knight, and by other of our lieges in his company, and by men of the aforesaid Ports, and have lately been brought into the liberty of the Cinque Ports, to pay and duly satisfy to the Flemish masters and mariners of the same ships their freight due for the carriage of the goods in the aforesaid ships, together with

¹ Edmund, Earl of Canterbury, Warden of the Cinque Ports.

the damages and expenses had and incurred by them in claiming the same before us and our council and otherwise ; and that, after satisfaction has been made to the same Flemings for their freight and damages and expenses aforesaid, you permit them to depart freely wheresoever they will ; bearing yourselves in the matter in such sort that no further complaint thereon, through any default of yours, come to our ears. And let there be no neglect by you. Witness the King at Westminster on the 4th day of February.

Rex eidem, Salutem. Mandamus vobis quod quoscunque homines portuum predictorum, qui bona et mercandisas inimicorum nostrorum Francie nuper in navibus Flandrie supra mare per dilectum et fidelem nostrum Thomam de Percy militem et alios fideles nostros in comitiva sua, ac eciam per homines quinque portuum predictorum, de guerra capta et infra libertatem quinque portuum eorundem jam noviter ducta emerunt, seu alias habuerunt et tenent in presenti, ad solvendum et debite satisfaciendum magistris et marinariis Flandrensibus in eisdem navibus tunc existentibus, pro fretto navium suarum predictorum eis inde debito, una cum dampnis et expensis eorundem magistrorum et marinariorum Flandrensium circa prosecutionem suam in hac parte penes nos et curiam nostram ac alio modo habitis et apposis, sine dilacione compellatis et satisfaciatis eisdem Flandrensibus, pro fretto suo ac dampnis et expensis suis predictis, ipsos quo voluerint libere ire permittatis, taliter vos habentes in hac parte ne in vestri defectum clamor ad nos inde perveniat iteratus, Et hoc nullatenus omitatis. Teste Rege apud Westmonasterium quarto die Februarii.

1380. The King to the mayor of Sandwich. Licence for two ships of Bordeaux to enter Sandwich harbour for safety against the King's enemies ; and to leave without payment of custom.—*Close Rolls*, 3 Ric. II, m. 40.

The King to the mayor and bailiffs of the town of Sandwich, and the collectors of our customs and subsidies in the port of the same town, Greeting. Certain merchants of our city of Bordeaux have petitioned us that, whereas two ships of Flanders, which the same merchants have laden in Flanders with divers merchandise, to be taken to Bordeaux, have been brought to the coast off Sandwich, and are now lying in the Downs ; Our will is to grant them leave to bring the said ships into the harbour of the said town of Sandwich, as well for their refreshment as for the security of the same ships, merchandise, and merchants against peril of our enemies, and to stay there until they may pass in safety to Bordeaux ; [and that] without payment of custom or subsidy ; We, duly assenting to their request, direct that you permit the said ships, together with the merchandise and merchants aforesaid, to enter the said harbour and there, for the purposes aforesaid, to remain, and freely to depart and pass to the parts of Bordeaux, when it shall please the said merchants [to do so ; and that] without payment of custom or subsidy for our use ; so, nevertheless, that the merchandise be in nowise unloaded from the ships. Witness, &c.

Rex maiori et ballivis ville Sandwici, ac collectoribus custumarum et subsidiorum nostrorum in portu ejusdem ville, Salutem. Supplicarunt nobis certi mercatores

civitatis nostre Burdegalensis ut, cum due naves de Flandria quas iidem mercatores diversis mercandis in Flandria carcarunt ad eas usque Burdeg' ducendas, jam usque costeras dicte ville Sandwici super les Dounes ducte existant; Velimus eis licentiam concedere quod ipsi dictas naves in portum dicte ville Sandwici, tam causa recreationis quam pro securitate ejusdem navis et mercandisarum et mercatorum predictorum contra pericula hostium nostrorum, ducere valeant, ibidem moraturi quousque versus Burdeg' secure poterunt pertransire absque custuma seu subsidio inde solvendo; Nos, eorum supplicationi juste annuentes, vobis precipimus quod dictas naves, cum mercandis et mercatoribus predictis, in dictum portum intrare, et ibidem ex causis predictis morari, et abinde, cum dictis mercatoribus placuerit, ad dictas partes Burdeg', absque custuma seu subsidio ad opus nostrum capiendo, libere recedere et transire permittatis, dum tamen mercandise ille extra naves non sint discarcatate quovis modo. Teste Rege apud Westmonasterium xxvj die Julii.

1386. Grant to foreigners of liberty to sell in England their prizes captured from enemies of England.—*Patent Rolls*, 9 Ric. II, pt. 2, m. 5.

The King to all, &c., Greeting. Know ye that whereas supplication has been made to us on behalf of Henry Utervont, and Herman, his brother, merchants of the town of Campen, with which town we are in friendly alliance, that, whereas our enemies of Spain have captured from the aforesaid Henry three great ships, and from the aforesaid Herman one ship, and divers goods and merchandises of great value, and have spoiled the same; and also that, whereas, on the Vigil of Philip and James, the Apostles, last past, our enemies of Normandy, at Denbigh in

Wales, in like manner captured two ships of the aforesaid Henry and Herman, We should be pleased to grant to them, Henry and Herman, that, in case they, or any friend of theirs, should capture in open war, and not during any time of truce, any ships or goods of our said enemies, they, Henry and Herman, and their friends aforesaid, and every of them, shall be empowered so to capture them, and afterwards, without any claim being made thereon, to bring them into our realm, there to make sale of them in safety. Now we, having considered the premises, have graciously determined by these presents to comply with their supplication. In witness, &c.

Rex omnibus ad quos etc. Salutem. Sciatis quod, cum ex parte Henrici Utervont et Hermanni, fratris ejus, mercatorum ville de Campe, que de amicitia et benivolencia nostra existit, nobis sit supplicatum, ut, cum inimici nostri Ispannie cepissent et depredati fuissent predictum Henricum de tribus grossis navibus, et prefatum Hermannum de una navi, ac de diversis bonis et mercandis suis ad valorem magne summe, ac eciam inimici nostri Normannie, in vigilia apostolorum Philippi et Jacobi proximo preterita, duas naves predictorum Henrici et Hermanni apud Deneby in Gallia similiter cepissent, Velimus eisdem Henrico et Hermannno concedere quod, in casu quo ipsi, vel aliquis amicorum suorum, de aperta guerra extra treugas aliqua vasa seu bona dictatorum inimicorum capere possint, iidem Henricus et Hermannus, et amici sui predicti, ac eorum quilibet, ea capere, et postmodum in regnum nostrum ad ea ibidem secure vendenda, ducere valeant, seu valeat, absque impetitione quacunque; Nos premissa considerantes supplicationem predictam eis gratiose ducimus concedendam per presentes. In cujus rei testimonium has literas nostras fieri fecimus patentes per triennium duraturas. Teste Rege apud Westmonasterium quinto die Junii.

1400. Letters of marque¹ against Scotland.
Patent Rolls, 1 Hen. IV, pt. 6, m. 6 d.

The King to his well-beloved William Prince, master of a certain barge called the Christopher of Arundel, Greeting. Know ye that we have appointed you to arrest and take as many marineis as may be necessary for the proper management of the said barge, wheresoever they may be found, within liberties or without, and to put them on board the aforesaid barge, at our wages to be paid to them forthwith by you, to go to sea in our service. And, therefore, we enjoin you that you be diligent in executing the premises, and in doing and performing them in manner aforesaid. And by these presents we straitly command all and singular, sheriffs, mayors, bailiffs, keepers of ports of the sea, officers, and all our lieges whatsoever, as well within liberties as without, that, as often as they are called upon by you on our behalf, they be obedient and attentive to you in doing and executing the premises, as beseems them. Nevertheless, it is our will that neither you nor any of our lieges, who set forth in company with you in the said barge, under colour of these presents, in any way seize any ships, barges, or other vessels, or any merchandise, goods, or chattels, belonging to subjects of the kingdoms of France, Spain, Portugal, or of any other countries whatsoever, but those only which are of the kingdom of Scotland. In witness, &c.

Rex dilecto sibi Willelmo Prince, magistro cujusdam bargee vocate le Cristofre de Arundell, Salutem. Scias

¹ Neither in this, nor in either of the two following commissions, does the term 'marque' or 'reprisal' occur.

quod assignavimus te ad tot marinarios quot pro sufficienti gubernatione ejusdem bargee necessarij fuerint, ubicunque infra libertates vel extra inveniri poterint, arestandos et capiendos, et eos in bargea predicta ad vadia nostra eis per te prompte solvenda ponendos, in obsequium nostrum super mare profecturos. Et ideo tibi precipimus quod circa premissa diligenter intendas, et ea facias et exequaris in forma predicta. Damus autem universis et singulis vicecomitibus, maioribus, ballivis, custodibus portuum maris, ac ministris et fidelibus nostris quibuscunque, tam infra libertates quam extra, tenore presentium firmiter in mandatis, quod tibi in premissis faciendis et exequendis, quociens per te ex parte nostra fuerint requisiti, pareant, obediant, et intendant, prout docet. Nolumus, tamen, quod tu, seu aliquis alius ligeus noster in comitiva tua in bargea predicta profecturus, aliquas naves, bargeas, aut alia vasa, mercandisas, bona, seu catalla quecunque, alicujus regnorum Francie, Ispanie, Portugalie, aut aliarum partium quarumcunque, nisi solomodo de regno Scotie, colore presentium capias, seu capiat quovismodo. In cujus, etc. Teste Rege apud Westmonasterium xvij die Aprilis.

1404. Commission to Henry Paye¹ to make war on the King's enemies.—*Patent Rolls*, 6 Hen. IV, pt. 1, m. 31.

The King to all and singular Admirals, captains, castellans, and to their lieutenants, and to keepers of ports of the sea and other maritime places, and to mayors, bailiffs, constables, provosts, and officers, and to masters and owners of ships, and mariners, and also to victuallers of ships, and to all other our lieges and subjects, whether on land or at sea, within liberties or without,

¹ Probably the 'Arripay' of *Le Victorial*.

to whom these presents shall come, Greeting. Know ye that we have granted and given leave to our well-beloved Henry Paye to sail and pass to the seas with as many ships, barges, and balingers of war, men-at-arms and bowmen properly equipped, as he may be able to provide himself with, to do all the hurt he can to our open enemies, as well for their destruction as for the safe guarding and defence of our faithful lieges, and for the safety of our realm. And therefore we command you, and each of you, that you supply the said Henry with ships, barges, and balingers, victuals, and all other things necessary and useful to him in this behalf, he paying for the same as shall be reasonably agreed between you and him; and that you be aiding, advising, and assisting to him, Henry, in the performance and execution of the premises, as beseems you. In witness, &c. These presents to endure according to our pleasure. Witness the King, &c.

Rex universis et singulis Admirallis capitaneis castellanis, et eorum locum tenentibus, custodibus portuum maris et aliorum locorum maritimorum, maioribus ballivis constabulariis prepositis ministris, ac magistris et marinariis navium et possessoribus earundem, necnon vitellariis et omnibus aliis fidelibus et subditis nostris, tam per terram quam per mare, infra libertates et extra, ad quos etc., Salutem. Sciatis quod concessimus et licentiam dedimus dilecto nostro Henrico Paye quod ipse supra mare, cum tot navibus bargeis et balingeris de guerra, hominibus ad arma et sagittariis sufficienter munitis quot sibi providere poterit, ad mala que poterit notoriis inimicis nostris pro destructione eorundem inferenda, necnon pro tuitione et defensione fidelium ligeorum nostrorum ac salvatione regni nostri, velare et transire possit. Et ideo vobis et cuilibet vestrum mandamus quod eidem Henrico naves bargeas et balingeras victualia et omnia alia que sibi in hac

parte necessaria fuerint et oportuna, solvendo pro eisdem prout inter vos et ipsum Henricum rationabiliter concordari poterit, liberetis, et eidem Henrico in premissis faciendis et exequendis intendentes sitis consulentes et auxiliantes, prout decet. In cujus etc. quamdiu nobis placuerit duratur'. Teste Rege apud Castrum de Maxstok tertio die Octobris.

1405. Letters of marque against all the King's enemies ; the holders to keep the whole of their prizes.—*Patent Rolls*, 6 Hen. IV, pt. 1, m. 12.

The King to all and singular Admirals &c., Greeting. Know ye that we have granted and given to our well-beloved John Wellys, master of a certain ship called the James of Bristol, and to Philip Taillour, master of another ship, called the Trinity of Bristol, liberty to equip in the port of the town of Bristol, at their own charges, the aforesaid ships with as many mariners, men-at-arms, and bowmen as shall be necessary for their navigation and defence at sea against our enemies, whosoever they may be, and for subduing, capturing, and destroying the same ; and liberty to set forth with the same ships, so equipped, upon the sea for the purpose aforesaid. And we will that whatsoever they, John and Philip, succeed in winning, gaining, and having by capture from our enemies aforesaid, they may have and keep for their own proper use, without claim or hindrance by or from us, or our heirs or ministers, or the ministers of any our heirs whatsoever. Provided always that under colour of this licence they, John and Philip, their mariners, men-at-arms, and bowmen aforesaid, neither do nor

permit to be done any violence, hindrance, or hurt to any who are in friendship with us. Witness the King at Westminster on the 4th day of February.

Rex universis et singulis Admirallis, etc., ad quos, etc., Salutem. Sciatis quod concessimus, et licentiam dedimus, dilectis nobis Johanni Wellys, magistro cujusdam navis vocate la James de Bristoll, et Philippo Taillour, magistro cujusdam alterius navis vocate la Trinite de Bristoll, quod ipsi naves predictas de tot marinariis ac hominibus ad arma et sagittariis quot pro gubernatione et defensione navium predictarum necessarii sunt ad proficiscendum supra mare contra quoscunque inimicos nostros, ipsosque debellandos, capiendos, et destruendos, in portu ville de Bristoll ad custus suos proprios arraiare, ac cum eisdem navibus sic arraiatis supra mare in forma predicta proficisci possint; Volentes quod iidem Johannes et Philippus omne id quod de inimicis nostris predictis lucrari, habere, vel conqueri, possint ad opus suum proprium habeant et retineant, absque impetitione seu impedimento nostri, vel heredum nostrorum quorumcunque; Proviso semper quod iidem Johannes et Philippus, aut marinarii, homines ad arma, seu sagittarii predicti, dampnum, violenciam, impedimentum, seu gravamina aliqua, aliquibus de amicitia nostra existentibus colore presentis licentie nostre non inferant, seu inferri presumant quoquo modo. In cujus, etc. Teste Rege apud Westmonasterium quarto die Februarii.

1406-1454. Summary of Statutes &c.

During the first half of the fifteenth century the experiment was made, more than once, of putting out to contract the keeping of the seas. It was first tried by Henry IV in 1406. The agreement entered into by the King with the merchants who were to undertake the duty stipulates that they were to have all their prizes, which was assented to by the King, except

that, if any 'captains' were captured, he was to have them on paying a reasonable reward to the captors.¹ The merchants were to be allowed to nominate their own Admirals, and Nicolas Blackburn was appointed by the King as Admiral of the North, with the usual disciplinary and judicial powers.² The scheme was a failure, and after a few months' trial was given up.

In 1408, or, as Nicolas³ thinks, more probably in 1410, in connexion with the truce with France, articles for the security of the sea against pirates and sea-robbers were drawn up. No armed ship was to sail from either country without the King's licence, and the Admirals of both countries were to have armed barges in readiness to pursue pirates wherever heard of.⁴ Whether these articles were ever acted upon does not appear.

An Act of the fifteenth century may here be mentioned, as showing that political considerations were calling for a more orderly administration of prize law than had hitherto prevailed. In 1414, perhaps in consequence of a treaty made in the same year with the King of Castile, an Act⁵ was passed for the appointment at the different seaports of officers called Conservators of Truces, who, acting under the direction of the Admiral, were to see to the preservation of peace at sea and the proper observation of treaty obligations to foreign princes. By this Act breaking of truces was made treason; this met with violent opposition,⁶ and the Act was suspended

¹ 'Item demandent les ditz marchauntz, mariners, et possessours, tout ceo que serra par eux gayne par voie de guerre des ennemys nostre dit Seigneur le Roi durant le dit temps; ascune prerogative ou privilege nostre dit Seigneur le Roy, sez Admiralx, ou ascuns autres niencontresteauntz, pur estre distributz par eux ou par lour deputes en manere accustumez.'

The answer was: 'Quant al quarte Article accorde est, qe les suisditz marchantz averont ce qils puissent gayner des enemys du Roy pur le dit temps. Purveux toutes foitz qe le Roy, nostre dit Seigneur, eit les cheveteyns, si ascuns soient pris, en fesauntz pur iceux cheveteins resonable regarde a ceux qi les preignent' (*Rot. Parl.* iii, 569).

² Rymer, viii, 439.

³ *History of Royal Navy*, ii, 398.

⁴ *Add. MSS.* 4598, f. 401.

⁵ 2 Hen. V, st. 1, c. 6.

⁶ *Rot. Parl.* v, 59, 60.

in 1436¹ and again in 1442,² and though re-enacted in 1450,³ the provision as to treason was omitted. No record exists of proceedings before these Conservators.

In 1426,⁴ with a view to preserve the peace recently made with France and Flanders, a proclamation issued as to captures made at sea. It directed that no one in England should buy goods so taken, and none were to be disposed of or divided at sea, 'mais soient gardez toutz entiers jusques a ceo que le conseil du Roy, ou le Chancellor d'Engleterre, l'Admirall d'Engleterre, ou son depute general pur le temps estant, soient certifiez du dit prinse, et duement enformez (a savoier) si les biens ainsi prins seront des amis ou des enemis.' Referring to the common practice of throwing overboard—'les gettont toutz outre borde'—the crews of prizes, in order to conceal their nationality, it directs that in future, if prizes were brought in without their crews, the captors were to be arrested.

A treaty of commerce with Burgundy in 1446 contains various provisions as to piracy and prize; the Latin version is in Rymer, xi, 140; and a French version in *Arundel MSS.* 26, f. 17 b.

Notwithstanding its failure in 1406, the experiment was again tried in 1454 of entrusting the custody of the sea to private persons; the non-existence of an efficient royal navy was a sufficient reason. It was committed to Richard, Earl of Salisbury, and other peers, to whom (as in 1406) tonnage and poundage, and other benefits, were made over. There was no express provision made as to prizes; but it is clear that the commissioners were to enjoy them, for there was a stipulation that the King should grant as few safe-conducts as possible, and none 'without grete and notable cause shewed to the Kynge's counseill'; and, further, that all English and neutral goods found in enemy ships should be good prize.⁵ This last provision was not new; for in 1441 an Act⁶ had passed to the same effect, with a stringent clause as to the enrolment in Chancery of safe-conducts, and their production to the captors.

The appointments by Edward IV of the Earl of Warwick

¹ 14 Hen. VI, c. 8.

² 20 Hen. VI, c. 11.

³ 29 Hen. VI, c. 2.

⁴ Cl. 4 Hen. VI, m. 11 d; printed in Rymer, x, 367.

⁵ *Rot. Parl.* v, 244; cf. *ibid.* v, 27 a; *K.R. Mem. Roll*, 36 Hen. VI, v. 44 a, Communia.

⁶ 20 Hen. VI, c. 1.

in 1462 and of the Earl of Worcester in 1463 as 'captain and keeper of the sea'—'the last survivals of the custom of putting the safeguard of the seas out to contract'—as pointed out by Mr. Oppenheim,¹ were due to political conditions and not to any intention to revive the practice.

The Black Book of the Admiralty contains documents purporting to be of the thirteenth century; but the compilation, as we have it, is certainly not of earlier date than the fourteenth century, and perhaps later. The local courts of the Admirals of the North, South, and West were certainly in existence, and were adjudicating upon prize² during the fourteenth century; but it is evident that they failed to give satisfaction to foreigners, and they raised a storm of opposition at home. Great irregularities occurred in them, and these led to the Acts of 13 & 15 Richard II, curtailing the Admirals' jurisdiction. Towards the end of his reign, or in the beginning of the reign of Henry IV, they were superseded by the principal or high court, which was the court of the Lord High Admiral, who was placed in charge of all the fleets. For some reason that is not clear the new tribunal was no more successful than those it superseded. Probably the dependence of the King upon his mercantile navy, and the habits of seamen resulting from centuries of lawlessness at sea, were too strong; and it must be remembered that the Admiral was himself largely interested in the decision of prize cases. The statutes and treaties above mentioned, and also an Act of 1453³ empowering the Chancellor to make restitution of ships and goods spoiled at sea, all point to the failure of the Admiral's court to give satisfaction. That it was of small importance for two centuries after its erection, either on its civil or on its prize side, is indicated by the fact that no records of its proceedings exist of earlier date than 1520, and no prize records of any importance before the end of Elizabeth's reign.

¹ *Administration of the Navy*, p. 31.

² See *supra*, p. 81.

³ 31 Hen. VI, c. 4.

1411. Letters of reprisal against the persons¹ or goods of the French.—
Patent Rolls, 13 Hen. IV, pt. 1, m. 17.

The King to all and singular Admirals &c., Greeting. Our well-beloved lieges, William Bentelee, Stephen Destmaux, John Aubyn, Nicholas Brigges, Gilbert Destmaux, and Thomas Weddesbury, and many others of their company, have informed us, with grievous complaints, that on Good Friday in the eleventh year of our reign, whilst they were at sea in a hulk of Zealand, in company with another vessel, which they were bringing to our realm of England, laden with wines to be sold there in the way of trade, there being then a truce between our adversary of France and ourselves, they, our lieges aforesaid, together with the aforesaid hulk and the wines in her, were captured by certain of our enemies of the parts of Normandy, [namely,] the lord of Pons, in violation of the aforesaid truce; and although of late many applications have been made to those of our adversary whom it concerned for the restoration to our lieges aforesaid of their vessels, wines, and other goods and merchandises, as well by our Admiral of England as by the venerable father in Christ, the bishop of St. Davids, and our well-beloved clerk, master John Catryk, our ambassadors sent of late to France under authority of letters addressed to them under our privy seal, nevertheless our lieges aforesaid have altogether failed to obtain justice in this matter, and hitherto justice has not been done to them, as will more fully appear by a public instrument thereon made; Now we, in

¹ Cf. Cl. 5 Ric. II, m. 4, and the next document, below.

consideration of the losses and injuries done, as aforesaid, to our said lieges, have granted unto them letters of marque and reprisal, to the end that they be empowered to capture the bodies and goods of any of our enemies of France, wheresoever they may be found, whereby they may have a reasonable chance of obtaining recompense for the loss of their vessels, wines, goods, merchandise, and other things, or their true value, together with their money losses, costs, and expenses, which, as we hear, are estimated to reach 5250 marks; and that our aforesaid lieges may be empowered to have and hold the bodies and goods of our enemies aforesaid, and to dispose of the same at their will, until restitution shall have been made to them as aforesaid, and that without claim or hindrance being made by us or our heirs, or by the officers or ministers of us, or our heirs, whosoever they may be. In witness, &c.

Rex universis et singulis Admirallis etc. ad quos etc., Salutem. Monstraverunt nobis dilecti ligei nostri Willelmus Bentelee, Stephanus Destmaux, Johannes Aubyn, Nicholaus Brigges, Gilbertus Destmaux, et Thomas Weddesbury, ac plures alii de comitiva sua, graviter conquerendo qualiter ubi ipsi in die Parasceves anno regni nostri undecimo supra mare in quoddam hulcum de Selandie ducentes secum quoddam aliud vas cum vinis carcatum ad vendendum mercatorie in regnum nostrum Anglie, se inserunt, treugis inter nos et adversarium nostrum Francie tunc existentibus, prefati ligei nostri cum hulco suo predicto per quosdam inimicos nostros de partibus Normannie, una cum predicto alio vase cum vinis in eodem existentibus per dominum de Pons contra formam treugarum predictarum capti fuerunt; et licet nuper pro restitutione prefatis ligeis nostris de vasis ac aliis vinis et mercandis suis facienda plures requisitiones ipsis de parte adversa quorum interfuit,

tam per Admirallum nostrum Anglie quam per venerabilem in Christo patrem episcopum Menevensem ac dilectum clericum nostrum magistrum Johannem Catryk, nuper ambassiatores nostros versus partes Francie nuper destinatos, pretextu literarum nostrarum de privato sigillo eisdem ambassiatoribus ex hac causa directarum facte fuerint, nihilominus prefati ligei nostri aliquod justitie complementum in hac parte minime habere potuerunt, seu adhuc habere possunt, prout per quoddam instrumentum publicum inde confectum plenius poterit apparere; Nos considerantes dampna et injurias predicta sic, ut premittitur, facta concessimus prefatis ligeis nostris marquam et reprisaliam, ita quod ipsi corpora et bona quorumcunque inimicorum nostrorum Francie, ubicunque invenire poterint, tam per mare quam per terram, ac citra mare et ultra mare, capere possint, per quod ipsi restitutioni vasorum, vinorum, bonorum, mercandisarum, et aliarum rerum suarum, seu veri valoris eorundem, una cum dampnis, financiis, custibus, et expensis suis rationabilibus approximare possint, que per estimationem ad summam quinque millium ducenarum et quinquaginta marcarum se extendunt, ut accepimus, et quod prefati ligei nostri corpora et bona inimicorum nostrorum predictorum habere et tenere, et inde ad voluntatem suam, quousque restitutio eis ut predictum est facta fuerit, disponere possint, absque impetitione seu impedimento nostri vel heredum nostrorum seu officiariorum seu ministrorum nostrorum vel heredum nostrorum quorumcunque. In cujus etc. Teste Rege apud Westmonasterium xiiij die Decembris.

1413. Letters of marque and reprisal against the Genoese.—*Patent Rolls*, 14 Hen. IV, m. 5; the Latin original is printed in Rymer viii, 773, but not quite correctly.

The King to all to whom these presents shall come, Greeting. Our well-beloved lieges William

Waldern, Drugo Barantyn, Walter Cotton, John Reynewelle, William Flete, Thomas Brown, William Brekespere, John Glamville, John Sutton and their fellows, merchants of the city of London, have shown unto us that of late they, with our licence, despatched certain factors and attorneys of theirs with a great quantity of wools and other merchandise, to the value of 24,000*l.*, shipped in divers ships, to be carried carefully and in safety by way of the Straits of Morocco to Western parts, there [to be sold] for the advantage and increase of our realm; and, to the end that the aforesaid ships so laden should have sure and safe passage, we caused our letters of recommendation to be sent to the Governors, worthies, and community of Genoa, which letters were, as we hear, duly presented to them by certain of the aforesaid factors; but they of Genoa, paying no regard at all to our letters aforesaid, and wickedly scheming, to the injury of the commonweal of our realm aforesaid, to hinder their passage, first of all detained the aforesaid ships, and afterwards compelled them to enter the harbour of Genoa, and, after their entry, spoiled them of the wools and merchandise aforesaid, and took them into their own hands, and sold them for their own use and profit; and, further, that the aforesaid factors were prevented from writing to their own magistrates upon the matter, and were, and now are, to the grievous hurt and injury of our said lieges, unable to get possession of any part of the aforesaid wools and merchandise, for their own support, or of any of the money arising from the sale thereof. Wherefore they have prayed us that we should think fit to issue to them our letters of marque and reprisal. And we, in compliance with their prayer, of our especial

grace, and with the assent of our council, have, for ourselves and our heirs, given and granted to the aforesaid William, Drugo, Walter, John, William, Thomas, William, John, John, and their fellows aforesaid that they of themselves or by their deputies may seize, keep, and retain such and so many Genoese, or subjects or inhabitants of Genoa or the confines of Genoa, or their factors or agents, as they think fit, whether on this side of the sea or beyond it, and whether on land or sea, together with their ships, vessels, goods, and merchandise of what kind soever, until full restitution and satisfaction shall be made to them for the value of the aforesaid wools and merchandise, to the amount aforesaid, together with their costs, damages, outgoings, and expenses, which by fair estimate amount to the sum of 10,000*l.*; and that they have liberty to put into execution or cause to be put into execution these present letters of marque and reprisal so often as they think fit, without hindrance by us or our heirs or by the Admirals of us or our heirs or by their lieutenants or other our officers or ministers whatsoever, [and that] notwithstanding any letters of safe-conduct granted or hereafter to be granted to the aforesaid Genoese, or subjects or inhabitants of Genoa or its confines, or their factors or agents, or anyone else of the country or territory of their community or confederacy.¹ Moreover, we straitly command all and singular [our] Admirals, captains, castellans, and their lieutenants, customers, keepers of ports, keepers of the sea and sea coasts, sheriffs, mayors, bailiffs, constables, ministers and other our lieges and

¹ *Sive conive*; not *sine covina*, or (as in Rymer) *sive covine*. As to *coniva*, see Ducange, *sub tit.*

subjects, as well on this side of the sea as beyond it, that in the execution of the premises they be aiding, helping, and assisting to the aforesaid William, Drugo, Walter, John, William, Thomas, William, John, and John, and their fellows, as beseems them, &c. In witness, &c. Witness the King at Westminster the 3rd day of February.
By the King himself and the council.

1413. Appointment of arbitrators to end a dispute before the Admiral as to the ownership of some prizes.—*Patent Rolls*, 1 Hen. V, pt. 2, m. 14 d.

The King to the venerable in Christ, Henry, by the grace of Christ bishop of St. Davids, and to our dearly beloved and trusty William Hankeford, also to our beloved clerk, Ralph Grenehurst, Greeting. Because we are given to understand that divers ships laden with wines and other merchandise have of late been captured at sea by certain of our lieges, and that divers controversies moved and arisen between our said lieges and the Admiral of England are [now] pending; We, having full trust in your allegiance and circumspection, and wishing, as we are constrained to do, that full justice in this behalf may be done to the aforesaid parties, have assigned you, and [any] two of you, of whom we will that you, the aforesaid William, be one, to inform yourselves by all the ways and means that in your wise discretion you shall deem best and possible, and also, if necessary, to inquire by the oath of honest and lawful men through whom the truth of the matter may better be known, to whom or to what persons the aforesaid ships,

wines, and merchandise, by reason of the aforesaid capture or otherwise belong, or ought to belong; and to take, and as justice requires, to deliver and restore the same ships, wines, and merchandise, to those to whom, according to your information and to inquisitions in that behalf made as aforesaid, they belong; And so we command you that you proceed diligently in the premises, and do and fulfil [what is necessary] in manner aforesaid. Moreover, we give it in command to all and singular sheriffs, constables, bailiffs, ministers, and other our lieges, subjects, and others whom it may concern, as well within liberties as without, that they [be aiding &c.]. In witness, &c.

Rex venerabili in Christo H[enrico] eadem gratia episcopo Meneven', ac dilecto et fideli suo Willelmo Hankeford, necnon dilecto clerico nostro magistro Radulpho Grenehurst, Salutem. Quia datum est nobis intelligi quod diverse naves vinis et aliis mercandis carcate per quosdam ligeos nostros supra mare nuper capte fuerunt, quodque diverse controversie inter eosdem ligeos nostros et Admirallum nostrum Anglie ac alios ligeos nostros pro navibus vinis et mercandis illis mote existunt et suborte; Nos, de fidelitate et circumspectione vestris plenius confidentes, ac partibus predictis justitie complementum in hac parte fieri volentes, ut tenemur, Assignavimus vos, et duos vestrum, quorum aliquem vestrum vos, prefate Willelme, unum esse volumus, ad vos omnibus viis et modis quibus melius sciveritis aut poteritis juxta sanas discretionem vestras informandos, ac etiam, si necesse fuerit, ad inquirendum per sacramentum proborum et legalium hominum, per quos rei veritas melius sciri poterit, cui vel quibus naves, vina, et mercandise predicta, occasione captionis predictae et alio modo pertinent, vel pertinere debent; et ad eadem naves, vina, et mercandisas, illis ad quos pertinent juxta informationem vestram et inquisitiones in hac parte,

ut premittitur, capiendas, ac juris exigentiam fideliter liberanda et restituenda ; Et ideo vobis mandamus quod circa premissa diligenter intendatis, ac ea faciatis et exequamini in forme predicta ; Damus autem universis et singulis vicecomitibus, maioribus, constabulariis, ballivis, ministris, ac aliis fidelibus et subditis nostris, ac aliis quorum interest, infra libertates et extra, tenore presentium firmiter in mandatis quod vobis, etc., quorum, etc., in premissis faciendis et exequendis intendentes sint consulentes et auxiliantes, prout decet. In cujus etc. Teste Rege apud Westmonasterium quinto die Julii.

1414. Letters of reprisal, to obtain payment of a debt.—*Patent Rolls*, 2 Hen. V, pt. 1, m. 34 ; the Latin original is printed in Rymer, ix, 125.

The King to all and singular Admirals, &c. [*After reciting that John de Waghen, of Beverley, had been unable to obtain payment of a debt owing to him by a merchant of Leyden, and that the King, and also Henry IV and Richard II before him, had in vain asked for redress from the Duke of Bavaria, and that Waghen had petitioned the King to help him, the document proceeds :*] . . . We, in compliance with the aforesaid prayer, command you, and each of you, that from time to time you cause to be seized and arrested all and singular the ships of the aforesaid town of Leyden that now are in any ports or elsewhere within our realm of England, or elsewhere within our dominions or power, or may hereafter come within the same, together with the merchants on board them, and their masters and mariners, as well as all the goods, merchandise, and things belonging to the merchants, masters, and mariners, that you find in such ships or elsewhere, to the value aforesaid,

in addition to the damages, costs, and expenses reasonably incurred by him, John, in this behalf, by way of marque and reprisal, and that you cause the same to be delivered to him without delay ; certifying to us, in our Chancery of England, from time to time clearly and distinctly under your seals touching the seizure and arrest of such ships, merchants, masters, mariners, goods, merchandise, and things aforesaid, and touching the delivery thereof to him, John, and of all you do in the matter. Witness, &c.

1414. Extract from the treaty between Henry V and the Duke of Brittany.—*Treaty Rolls*, 97, m. 29; the Latin original is printed in Rymer, ix, 84.

. . . Also [it is agreed] that no armed ship of the Duchy of Brittany, or of the country of the lord the Duke, or of the places comprised in the said truce, shall go out of any port until full and sufficient bail and security is given to the said Duke by her charterer, owner, factor, or master, to be received by the bailiffs, judges, or other officers of such port or town, that, so far as in them lies, nothing contrary to the tenor and effect of this present truce shall be attempted or done, and that they will cause no prize, whether lawful or unlawful, to be taken into any port not being a port of the dominion or territory of the Duke or of the parts comprised in the present truce, except they be driven in by wind, tempest, or weather, or by pursuing enemies ; And that, in case anything [contrary to this truce] is attempted, then full restitution, together with damages and interest, shall be made by the aforesaid charterers,

owners, factors, or masters, to the party injured ; And that, if any armed ship shall leave the said towns or ports without having given security as aforesaid, and anything contrary to the tenor of this present truce shall be attempted by those on board her, then the ship shall forthwith be forfeited to the Duke ; And that the mayors, bailiffs, governors, and other officers of the places from which the ship sailed, as well as the actual wrongdoer, shall be bound to make full restitution to the injured party ; Also that if, during this present truce, any ship with any prize comes into any town or port of the said lord, the Duke, or of the localities aforesaid, the said lord, the Duke, will not receive any traitors, fugitives, banished men, pirates, or exiles of the said lord, the King, and will not under any pretence or title supply them with any victuals ; And that, if the said lord, the King, or the conservators¹ of his realm, shall give to the said lord, the Duke, or to his conservators, the names of such traitors, fugitives, pirates, or banished men, they shall forthwith be arrested by the said lord, the Duke, or by his conservators, and kept in safe custody until the same lord, the King, has dealt with them at his will, but at his own cost and expense.

Also that the said lord, the Duke, will not receive enemies of the said lord, the King, armed in warlike fashion, or any who are minded to make war in hostile fashion against him, the lord, the King, and will not harbour them or supply them with victuals, or other like supplies ; and that the said lord, the Duke, will not during the present truce permit or suffer any of his subjects to leave his dominions, jurisdiction, or territories, them-

¹ As to the Conservators of Truces, see p. 116.

selves, or in company with other enemies of the said lord, the King, who are about to make war, either by land or sea, against the said lord, the King, or against his subjects ; and that he, the Duke, will not help, or in any way support them, or permit them to be forwarded, helped, received, or supported by any of his subjects or others dwelling in the places aforesaid.

Also that no prizes captured from the English by any enemies of the said lord, the King, shall be received by the people of Brittany, or in the ports, towns, territories, or jurisdictions of the said lord, the Duke ; and that no selling, dispersal, or other alienation of such goods captured from the English shall be made in the ports, towns, territories, or jurisdiction of the said lord, the Duke. And that those who, by land or by sea, molest or harass any subjects of the lord, the King, by enterprises of this sort are not to be received, admitted, or in any way comforted, in the land or harbours comprised in the said truce. And that, if any subjects of the said lord, the Duke, shall be found to be in fault or transgressing in this behalf, they are to be duly punished by the proper authorities, according to the exigency of the case.

Also, if any subjects of the said lord, the King, capture any ships, persons, things, or goods of any enemies of the lord, the King, and they are obliged by weather or chance to come into the harbours or parts of Brittany, or any of the places comprised in the said truce, they are not to be prevented by the said lord, the Duke, or by his subjects, or by people inhabiting the places aforesaid, from freely and without any hindrance whatever taking away with them such ships, persons, things, and goods, and disposing of them as they will, except they should have

been captured in the territories or harbours of the said lord, the Duke. And that the said lord, the Duke, and his subjects, and others comprised in the said truce, are not by any art or device to colour the ships, persons, or goods of enemies of the lord, the King, as their own ; And that, if it should happen that any subject of the lord, the Duke, do by any device colour, or pass off as his own, any such ships, persons, things, or goods, and this be successfully proved against him, the delinquents are to be for ever excluded from the benefit of this present truce.

1442. The agreement entered into by Henry VI with certain shipowners and others that they should keep the seas contains the following provisions as to prize.—Printed in *Rotuli Parliamentorum*, v, 60.

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Item there suche proclamation & ordenaunce to be made & establisshed amongs & in the saide navie that none of ¹ shipp or shippes harme ne hurt none other shippe of oure freendes ; where thorough any trouble or brekyng of pees myght falle betwene the Kyng our Soveraingne Lord & other of his freendes.

Item it is thought necessarie, that if any shippe or shippes be takyn as ennemyes, whenne the goodes in the saide shippes be broght in to eny port of this land, that the godes ne the shippes be nat disperbled ne devided into the tyme that it be duly knowen wheder it be enemyes goodes

¹ *Sic* in original.

or freendes godes ; forsene alwey that the preffe be made withinne vj wekes after the landyng or havenyng of the seide shippe or shippes and goodes so taken.

Item it is to be remembred how in tyme passid awners of divers shippes that have be commaundement of the Kynges counseill sent their shippes to the see, and they nought sette in their shippes maisters ne maryners, for their meprison on the see, were putte in grete trouble & disease ; Wherefore be it nowe ordeyned be auctorite of this Parlement that noon suche awner of any shippe atte this tyme goyng to the see, or hereafter shall goe to the see, for kepyng therof, be endaungerd or disseised, lesse thenne he be in the see with his shippe in his persone, or ellis be partyner of suche goodes mistaken ; and if he be so founden, than he to answere to the partie that the goodes be mystake of, to the value therof that comes to his handes ; & in that caas he to be beleved be his othe & ij or iij of his credible neyghbours with him sworne, & so to be acquitte. Forthermore it is avised, that if it so be that any of the saide shippes in this ordenaunce appoynted be nat in England, ne in the portes afore named, or mowe not be had, that thanne it shall be lefull to the saide chief capytayne for to chese by hys wisdom an other shipp or shippes like to hem thet lakketh of thoo that afore ar named ; and that every under capitayne, in the absence of the chief capitayne, have power in the same fourme in caas like for suche shippes as shall be necessarie.

Item hit is [th]ought [th]at the godes and shippes thet mowe happe to be taken by hem, or by any of hem, in the see of our enemys shall be departed in the fourme after sewyng : thet

is to say, the maisters of the shippes, quarter maisters, shipmen and soudeours, shal have half the shippes and goodes so taken; and othere half of the shippes and goodes shall be departed in three, of whiche the awners of the shippes, barges, balingers, and spinaces, shall have ij pàrtes, and the chief capitain, and the undre capitayns the thrid parte; of the which thrid part the chief capitayn shall have double that oon of the undre capitains shal have.

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1443. Writ directing that a ship and goods, which had been captured and brought to England and there ordered to be restored to her Breton owners, should be detained, on the ground that the owner of them had himself piratically captured a ship and goods of Englishmen, to whom letters of reprisal against Bretons had been issued.—*Chancery Miscellanea*, 28, File 7, No. 25.

Henry, by the grace of God King of England and France, and Lord of Ireland, to all and singular sheriffs, mayors, bailiffs, constables, ministers, and other officers whatsoever in the counties of Devon and Cornwall and each of them, Greeting. We hear from the sorrowful and piteous complaint and long-continued suit of our well-beloved and trusty lieges, Robert Langist and Robert Drewe of Fowey, in the said county of Cornwall, that whereas they of late, hopefully and fully trusting in a letter of safe-conduct from the late Duke of Brittany, loaded abroad a ship, called the Trinity

of Fowey, of the burden of 67 tons, whereof the said Robert Langist was master, with wine, gold, silver, and saffron, and other merchandise, to the value of 1000*l.*, and sailed for our realm of England, there came upon them certain pirates—namely, Pety Pynson, Fukket Gamber, Peczy Colas, Mark Roge, and others of the town of St. Malo, and Leon, and other places in Brittany—and captured the aforesaid ship, goods, and merchandise, and took them to the said town of St. Malo, doing what they would with them, in open violation of the force, form, and effect of the aforesaid letter of safe-conduct, and of the peace had, made, and concluded between us and those of Brittany; and that the aforesaid Robert and Robert sued before the aforesaid late Duke and his council, to get restitution of their said ship, goods, and merchandise, but hitherto have altogether failed to obtain such restitution, although we repeatedly caused to be sent to the said Duke our letters, under our privy seal, asking that restitution to the aforesaid Robert and Robert should be had and made. And because we are informed that one Maurice Lannowe, who was one of the pirates present at the capture of the aforesaid ship, goods, and merchandise, has, by virtue of letters of ours directed to diverse of our lieges, in his name and in the names of the aforesaid Bretons, recovered a ship of his called the St. Christopher of St. Briac, and other ships, goods, and merchandise belonging to other Bretons, who also were pirates present at the said capture, which [ship and goods] were lately captured by one Hankyn Selander and brought to our realm aforesaid, and is about to have restitution made to him of the same, and proposes, as it is said, to pass to his own country;

Now we, having regard to the very great costs, pains, and losses, and the long-continued suit, which the aforesaid Robert and Robert have undeservedly been put to, and sustained, in obtaining restitution [of their ship and goods], and desiring that justice should be administered and dealt out indifferently to all and singular our lieges and subjects, command that without delay you cause all ships, goods, and merchandise that are proved to you to belong in any way to the aforesaid Maurice and the aforesaid Bretons, in whosoever hands they may be found in the aforesaid counties, or either of them, to be arrested and kept safely and securely under arrest, until you receive further order thereon, [and this] notwithstanding our aforesaid letters directing restitution to be made to the aforesaid Maurice and the Bretons; and when you shall have executed this our present order, you are clearly and distinctly to inform us touching all that you do in this matter [by certificate] under your seals, or under the seal of one of you, sent together with this writ, to our Chancery. Witness, &c.

Henricus, dei gratia Rex Anglie, Francie, et Dominus Hibernie, Universis et singulis vicecomitibus, maioribus, ballivis, constabulariis, ministris, ac aliis officiaribus quibuscunque, in comitatibus Devonie et Cornubie, et eorum cuilibet, Salutem. Ex lamentabili et lacrimosa querimonia diutinaque prosecutione dilectorum et fidelium ligeorum nostrorum Roberti Langist et Roberti Drewe de Fowy, in dicto comitatu Cornubie, accepimus qualiter, cum ipsi nuper sub spe et confidentia quarundam literarum nuper ducis Britannie de ejus salvo conductu plenarie confidentes, quandam navem vocatam la Trinite de Fowy, portagii sexaginta et septem doliorum, unde predictus Robertus Langist fuit magister et possessor, cum vino, auro, argento, et croco, ceterisque mercandis,

ad valorem mille librarum, in partibus exteris onustassent, in velando versus regnum nostrum Anglie supervenerunt quidam pirate, videlicet, Pety Pynson, Fukket Gamber, Pety Colas, Mark Roge, et alii de villa de Seint Malous, ac de partibus de Lyons,¹ et aliis locis in Britannia, et navem, bona, et mercandisas, predicta, ceperunt, et usque dictam villam de Seint Malous duxerunt, eorum libitum cum eisdem faciendo, manifeste contra vim, formam, et effectum, literarum predictarum, ac pacis inter nos et illos de Britannia habite, facte, et concludere, pro quorum quidem navis, bonorum, et mercandisarum, restitutione habenda et fienda predicti Robertus et Robertus penes prefatum nuper ducem et consilium suum prosecuti fuerunt, set aliquam hujusmodi restitutionem hucusque optinere minime potuerunt, non obstante quod nos literas nostras sub privato sigillo nostro eidem nuper duci pro hujusmodi restitutione prefatis Roberto et Roberto fiendo et habendo fecimus sepius destinari; et quia informamur quidam Mauritius Lannowe, qui unus piratarum predictorum et captioni navis bonorum et mercandisarum predictorum presens fuit, quandam navem suam, vocatam Cristofore de Seint Briac, ac alia naves, bona, et mercandisas, aliorum Britonnum, qui similiter pirate et captioni presentes fuerunt, nuper per quendam Hankyn Selander capta et usque regnum nostrum predictum adducta, virtute quarundam literarum nostrarum diversis ligeis nostris directarum, nomine suo et Britonnum predictorum, recuperavit, et restitutionem eorundem habere debet, cum eisdem versus partes suas proprias ut dicitur transire proponendo; Nos immensa custos, labores, et deperdita, diutinamque prosecutionem, que predicti Robertus et Robertus circa hujusmodi restitutionem habendam ante hec tempora habuerunt et sustinuerunt immerito contemplantes, volentesque, tam universis et singulis ligeis et subditis nostris, quam aliis quibuscunque, justitiam indifferenter impartiri et ministrari, Vobis mandamus quod omnia naves, bona, et mercandisas, que vobis constare poterint prefato Mauricio et Britonibus predictis aliquo modo

¹ Leon.

pertinere et esse sua, ubicunque et in quorumcunque manibus infra comitatus predictos, seu eorum alterum, inveniri poterint, sine dilatione arestari, et sub hujusmodi aresto salvo et secure custodiri faciatis, quousque aliud inde duxerimus ordinandum literis nostris predictis pro aliqua hujusmodi restitutione prefato Mauricio aut aliis Britonibus predictis facta vel fienda non obstantibus, et nos de toto facto vestro in hac parte, cum presens mandatum nostrum fueritis executi, in Cancellariam nostram sub sigillis vestris seu alicujus vestrum distincte et aperte sine dilatione reddatis certiores, hoc breve nobis remittentes. Teste me ipso apud Westmonasterium xvj die Octobris anno regni nostri vicesimo secundo.

1484. Proclamation against piracy. All ships to give security for good behaviour before sailing.—*Patent Rolls*, 2 Ric. III, pt. 1, m. 5 d.

The Kyng, our most dredde sovereign lord, streitly chargeth and commaundeth, that no manner of man, of what condition astate or degre he be, shall from hensforth rigge, vitale, or man to the see any ship of werre oute of any cite, town, poort, creek, or other places of this realme of England, but that he afore make a solempne othe and also fynde sufficient suertie to the maiours, baillifs, customers, comptrollers, or sercheours, of any suche cities, townes, portys, creekys, or placys, or to suche lord or lordys of the soile next adjoynyng to any haven, poort, or creek, to the Kyngis behoof, of their good abering ayenst the Kyngis subgettis, frendys, and confederatis, and all other being under the Kyngis saufgard or saufconduyte; that is to sey, the subgettis of the Kyngis of Spayne and Portyngall, the subgettis of the Dukys of Austrige & Burgayne,

the subgettis of the nations of Italie & Almayn, the subgettis of the Duc of Bretayn, during the abstinence of werre late taken betwene the Kyngis highness & the said Duc, and the subgettis of the Kyng of Scottis, during the abstinence of werre takyn betwene the Kyngis highnes & the seid Kyng of Scottis ; And if any suche person departe to the see with any ship of werre oute of any cite, towne, porte, creek, or othere place abovesaid, without othe & sufficient suertie founde, as is aforsaid, than he is to forfaite unto the Kyngis grace all that he may forfeit ; And in case he attempte anything ayenst the Kyngis subgettis, frendys, & confederatis, or any of theym aforseid, contrarie to the statute in suche case provided, that than he to be reputed, had, & takyn, as the Kyngis rebell & traitour. Over this, if any ship of werre bryng into any haven, poort, or creek, any prise or goodys takyn on the see to be devided or sold, than the maiour, bailiffs, customers, comptrollers, serchours, or other lordys abovesaid of the same place where the same prise shalbe brought unto, or of the soile next adjoyning [shall] se the same prise & goodes, and every part of the same, to be put in sauf & sure kepyng, unto the tyme they be sufficiently certified of the lawfull takyng of the same prise & goodes, from the Kynges grace, or his Admirall of the flete for the tyme beyng upon the see. And in case any suche maier, baillif, or other above named suffre any ship of werre to departe unto the see before othe made and sufficient suertie founde, as is aforeseid, that than he that so suffereth the same ship to depart shall satisfie suche persons as by the same ship of werre shall or may be hurte or greved, and ferther to be punysshed as shalbe thought by the Kynges grace & his counsell

convenient. And over this, that all manner men, beyng the Kingis officers in cities, burghs, townes, havens, poortes, creekys, or other places corporate or incorporate, as well within fraunchises as without, and all other lordys of the soile where any suche shippyng shall now be, to¹ endeavour theym self that this proclamation in every behalf be kepte and observed, aftir the tenoir and effecte of the same, as they & every of theym will eschewe the Kyngis grete displeasure, and aunswere to his highnesse at their uttermost perilles ; Et hoc sub periculo incumbente nullatenus omittas. Teste Rege apud Westmonasterium xj die Augusti.

1485. Writ directing enquiry to be made as to the capture of a ship with goods on board for the ransom of prisoners, and having a safe-conduct, and arrest of the captors.—*Patent Rolls*, 2 Ric. III, pt. 2, m. 7 d.

To his well-beloved and trusty Sir John Scrope, knight, and Sir William Courtenay, knight, Greeting. By the grievous complaint of Nicholas Codelam, merchant of the town of Morlaix in Brittany, it has been shewn to us that, at the time when the truce was broken and war broke out between us and the Duke of Brittany, some Bretons, then in divers cities and towns of this our realm, were taken prisoners and detained ; and, in order that certain of them might the sooner be redeemed, and their ransoms paid, the said Nicholas loaded at Morlaix aforesaid a certain ship of Brittany with wines of the growth of the

¹ In original ' mowe to be.'

Duchy of Aquitaine, oil, linen, and other merchandise, and sailed with her and her lading to our port of Topsham, having obtained from our kinsman John, Duke of Norfolk, Admiral of England, through our well-beloved liege and serjeant Matthew Andrewe, letters of safe-conduct for himself and his ship and goods aforesaid ; And whilst the ship was sailing on the sea to the aforesaid port there came upon them one Richard Tayllour, of Topsham aforesaid, accompanied by a large number of pirates in three ships of Topsham, who spoiled the said ship of Morlaix of all the wines, oil, and merchandise aforesaid, which he disposed of at his will, to the very grievous loss of him, Nicholas, and against the tenor of the aforesaid letters of safe-conduct. Wherefore he, Nicholas, has humbly petitioned us that we should deign to order due justice to be done, and restitution of the premises to be made to him. And we, desiring that, so far as in us lies, a due and speedy remedy be provided for anyone who is injured and spoiled contrary to the tenor of our safe-conduct, and trusting firmly in your faithfulness and circumspection, have appointed you, jointly and severally, to enquire by the oaths of good and lawful men of the said town of Topsham and the neighbourhood, and by all other ways and means you know of and can, touching the form and manner of the capture and spoiling of the said ship of Morlaix, and to whose hands the aforesaid wines, oil, and merchandise, or any part thereof, came, and in whose hands they now are ; and to arrest, and seize them, if they are in existence, and, if not, their true value, and to cause them, or their value, to be without delay delivered to the aforesaid Nicholas, or his attorney in this behalf ; and to

commit to our prisons all who oppose or disobey you in the execution of the premises, if any such there be, to remain there in safety until we shall give further order for their delivery from prison ; and to certify us, in our council, without delay, touching such inquisitions and all that you do in this matter. In witness, &c.

Dilectis et fidelibus suis Johanni domino Scrope, militi, et Willelmo Courtenay, militi, Salutem. Ex parte Nicholai Codelam, mercatoris ville de Morlace in Britannia, nobis est graviter conquerendo monstratum qualiter, tempore infractionis treugarum et guerrarum inchoationis inter nos et Britannie ducem, nonnulli Britones, in diversis civitatibus et villis hujus regni nostri adtunc existentes prisonarii, capti fuerunt et detenti, et, ut aliqui eorum citius redimerentur et ipsorum finencie persolverentur, dictus Nicholaus quandam navem de Britannia cum vinis de crescentia ducatus Aquitanie, oleo, pannis, lineis, et aliis mercandisis, apud Morlace predictam onustavit, et cum eadem navi, vinis, et ceteris premissis, onusta usque portum nostrum de Toppesham literis de salvo conductu a consanguineo nostro Johanne Norff' Duce, Anglie Admirallo, per dilectum ligeum et servientem nostrum Matheum Andrewe, pro ipso Nicholao ac navi et bonis predictis optentis et acquisitis transfretavit ; ipsaque navi versus portum predictum super mare velante supervenit quidam Ricardus Tayllour de Toppesham predicta, associatis sibi piratis in magno numero in tribus navibus ejusdem portus, ac dictam navem de Morlace de vinis, oleo, et mercandisis predictis, totaliter spoliavit, et ad libitum suum disposuit, in ipsius Nicholai dampnum gravissimum, et contra formam literarum salviconductus predictarum. Unde idem Nicholaus nobis humilime supplicavit ut ei debitam justitiam et restitutionem premissorum fieri jubere dignaremur. Nos unicuique contra tenorem nostri salvi conductus injuriato et depredato, quantum in nobis est, debitum et celere remedium fieri cupientes, et de vestris fidelitatibus et circumspectionibus plurimum confidentes, assignavimus

vos, conjunctim et divisim, ad inquirendum per sacramentum proborum et legalium hominum dicte ville de Toppesham, et partium adjacentium, ac aliis viis et modis et mediis quibus sciveritis aut poteritis, de modo et forma captionis et spoliationis dicte navis de Morlace, et ad quorum seu cujus manus vina oleum panni et mercandise predicte aut aliqua pars eorundem devenerunt, seu devenit, et in quorum, seu cujus, manibus adhuc existunt, et ad eadem vina, oleum, pannos, mercandisas, et quamlibet inde parcellam, si extent, aut pretium, seu verum valorem eorundem, si non extent, arestanda et seisienda, et prefato Nicholao aut ejus in hac parte attornato sine dilatione deliberari faciendi, et ad omnes illos vobis in executione premissorum contrarios et inobedientes, si quos inveneritis, prisonis nostris committendos, in eisdem quousque pro eorum deliberatione aliter duximus ordinandum salvo moraturos, et ad nos in consilio nostro de inquisitionibus hujusmodi et de toto facto vestro in hac parte sine dilatione debite certificand'. Et ideo &c. Damus &c. In cujus &c. Teste Rege apud Westmonasterium xxiiiij die Februarii.

1486. Security for the good behaviour of Newcastle ships.¹—*Exchequer Miscellanea* $\frac{9}{37}$.

This Indenture, made the 1st day of October in the ij^d yer of the reigne of our sovereyn lord King Henry vijth between the same our sovereyn lord, on that oon partye, and the meyre shiref aldermen and commonaltie of the town of Newcastle upon Tyne, on that other partye, Witnesseth

¹ *Exchequer Accounts* $\frac{55}{17}$ and $\frac{55}{18}$ contain a number of similar indentures of the same period for other seaports. No record has been found showing whether the bonds were ever sued upon; but in the next century they were again tried (see *Acts of the Privy Council*, September 27, 1547). Treaties of the period provide for such security being given (Rymer, xii, 690; *Ibid.* xiii, 699).

that the said meyre, shiref, aldermen, and commonaltie, have covenanted, promised, and granted, to our said sovereyn lord the Kyng, that the said meyre, shiref, aldermen, and commonaltye, of the said town of Newcastell upon Tyne, for the tyme beyng, in the presence of the customers conntrollers and sercheours of the Kyng in the same town, or their deputyes in their absence, if they wolbe present thereto after they be warned, shall take sufficient suretie of and for thowner, maister, or purcer of every ship English in the said town of Newcastell, to the double valew of the said ship, takyll, and vitayle of the same, that the mariners of the said ship shall, in the see and in the stremys of the same, kepe the peax agenst all the King's subyetts, and all other of his amytie and alyance, and agenst all other havying the King's save conduct, and well and lawfully shall behave theym agenst theym, and all other, according to the ordinaunce of our sovereyn lord the Kyng and his lawe. And ellis they shall not suffer the said ship to depart out of the said town or haven, onlesse then the said owner, maister, or purcer of the said ship, which wold so depart, shew lycence of the King's highnes, undyr his prive seal, that he may depart without fyndyng of suretye, or ellis that the said owner, maister, or purcer shew undyr autentyke, sufficient, or evident, testimonialls, that there is founde sufficient and like suretye in other place for the said ship, and mariners of the same. Also it is covenanted, graunted, and agreed by the said meyre, shiref, aldermen and commonaltie, that, if any robber or spoyler in the see, or in the stremes of the same, come into the said town of Newcastell, or haven or creek of the same, in all possible haste

after the said meyre, shiref, aldermen and commonaltie, hath verrey knowledge that they have made such robberye or spoyle, they shall put them in devoire to arest the same robbers and spoylers, and the ship or ships so takyn to kepe unto the tyme the said meyre, shiref, aldermen, and commonaltie geve knowledge thereof to our sovereyn lord the Kyng, or his counseile, and thereuppon to understand the pleasure of his highnes. For the which arrest so made our sovereyn lord the King shall recompense such costs as the meyre, shiref, aldermen, and commonaltie, or any of them, shall bee [at] for the doying thereof. And also the said meyre, shiref, aldermen, and commonalty of the said town shall give noo comfort, aide, nor assistance to any suche robber or spoiler, nor purvey, nor suffer to be purveied to theym any victuale takyll or harneys, knowing theym spoylers or robbers, as much as in them shalbe. And if it fortune that any owner, maister, or purcer, or any other bound for theym, to forfeite any bond wherein as is aforesaid any of them be bounde, then the said meyre, shiref, aldermen, and commonaltie, shall satisfie and content to the Kyng, our sovereyn lord, within xl days next aftyr the said forfeiture be sufficiently proved, and notice thereof geven to the said meyre, shiref, aldermen, and commonalty, as moche as the said bond so forfeited amounteth unto. Also it is agreed, graunted, and promised by the said meyre, shiref, aldermen, and commonalty, that when they shall take any suretye of or for thowner, maister, or purcer, of any ship, as is aforeseid, that they so taking surety shall deliver wrytyng undyr their common seal to the said owner, maister, or purcer, testifying that they have suretie of them, accordyng to

such Indenture as be made between the Kyng's Highnes and the said meyre, shiref, aldermen, and commonaltie, to shew for their deliveraunce out of every other haven wherafter it shall happen them to come—without findyng of any other surety. And if it happen eny of the said sureties so takyn for thowner, maister, or purcer, to consume or lessen by death, povertye, or otherwise, so that they that remayn be not sufficient to answer for the double valew of the said ship, takyll, & vitayll, as is aforesaid, as ofte as it shall soo fortune, the said meyre, shiref, aldermen, and commonalty, if they wol, shall take bettyr surety of the said owner, maister, or purcer, as is aforesaid, or ellys the said meyre, shiref, aldermen, and commonaltie, shall not suffer the said ship to depart. Provided alweis that the said meyre, shiref, aldermen, and commonaltie, be not by force of this Indenture constrayned to take surety of thowner, master, or purcer, of any ship merchant, which shall happen to come to any haven other than his propyr haven, betwix this and the natyvitie of our Lord next comyng, for that in the mean tyme they may fynd their surety in their proper haven accordyng as is aforesaid. Provided also that the said meyre, shiref, aldermen, and commonaltie, nor any other officer of the said town of Newcastle upon Tyne, take for wrytyng, makyng, or sealyng of any of the premises above the sum of xij^d. All which covenants, graunts, and promises aforesaid the said meyre, shiref, aldermen, and commonaltie, and their successours, shall kepe, hold, and perform, during the space of vij yerys. In Witness to thoon part of this Indenture remaynyng towardys our sovereyn lord the said meyre and shiref, aldermen, and commonaltie, have put their common seal, the day and yere abovesaid.

1490. Proclamation against harbouring pirates, or buying their goods.—*Patent Rolls*, 6 Hen. VII, m. 11 d.¹

[The King to the Sheriff of Yorkshire, Greeting. We command, straitly enjoining you, that, immediately after receiving these presents, you cause proclamation to be made on our behalf in all places within your bailiwick, as well within as without liberties, wheresoever you think it most expedient, in these words]²: Wher as divers leges, confederacyons, and amytes, as well bytwene the Kinge, our soveraigne lege lord and his most dere cosyns, the most high and myghty princes, Maximilian, King of Romans, and Phelip his sonne, Archiduke of Astrich, the most high and excellent prince, John, King of Portingale, as³ the right noble and excellent princesse, Anne, Duchesse of Bretaigne, for our said soveraigne lord, and for the said princes, his said cosyns, and his and their said lands, seigneuries, contrees, subjettis, vasalles, allyes, confederates, and adherentez, whatsoever they be, wer lately covenanted, made, concorded, ap-
 poynted, and concluded, perpetually to endure; which notwithstanding, divers and monyfold spoliations and robberies [have] been daily had, committed, and doon uppon the se unto the said subgettis of the said most high and myghty princes, his most dere cosyns, as well by their enemyes as by other pirattis and robbers, which, as it is said, daily resorte into divers portes and places of this his realme of England, and ther

¹ Many proclamations similar to this were issued in later times. Piracy was the subject of a treaty with the Archduchess of Austria about this time.

² In the original thus far is in Latin.

³ *Sic*.

be suffered to utter and sell their prises, spoiles, and pillages, in to the great comforth of the said mysdoers, contrarie to the lawes and statutes of this land, in violation and in breche of the foresaid leges, confederacions, and amyties, and in grevous contempte of our said soveraigne lord, and to thunportable damage of the forsaid subgettis. Oure said soveraigne lord, the King, willing the said leges, confederacions, and amyties, fermely and entyrelly to be observed and kept, and the forsaid subgettis truly and right wisely to be intreted accordyng to the purport and effect of the same, strately chargeth and commaundeth thet no manner of persons, of whate estate, degree, or condition he be of, from henssforth comfort, take, ne receyve, in any of the said portes or other places of this his realme any of the said mysdoers, ne any merchandisez or goodes by theym spoiled or takyn frome any of the said subgettis in any manner of wise bie or other wise receyve, uppon payn of forfeiture of the same merchaundises or goodes, in or to the value thereof, for restitution therof to be made to the parties grevid, and uppon payn of imprisonment of their bodies, or otherwise to be punysshed at the Kinges will. Et hoc sub periculo incumbente nullatenus omittas. Teste Rege apud Wyndesore xvij die Novembris.

1511. Appointment of John Hopton to command a squadron against pirates.—
Patent Rolls, 3 Hen. VIII, pt. 1, m. 7.

The King &c. to his well-beloved and trusty John Hopton, one of the gentlemen ushers of our chamber, Greeting. Because, upon the relation

of some of our lieges we are informed that many spoilers, pirates, exiles, and outlaws, arrayed in warlike fashion on the sea, have there assaulted our subjects and faithful lieges, spoiled their ships, goods, and merchandise, and are daily busying themselves and intending with all their strength to assault, rob, and spoil them; to the grievous contempt of our royal dignity, and to the manifest terror, injury, and hurt of our own people, and of other merchants resorting to our realm; which things we are unwilling, as we ought not, to leave unpunished, but desire, as we are bound to, with the help of God, to withstand and resist their wickedness in this behalf; Therefore, fully trusting in your industry, foresight, and circumspection, we have assigned, nominated, and appointed you to be captain, ruler, and chief leader, of all and singular the ships, and also of all manner of masters, vice-captains, mariners, soldiers, and of all other persons whatsoever, whom we now, God willing, intend and purpose to send and set forth to sea in your company for the aforesaid purpose; Giving and granting to you, by virtue of these presents, full power and authority, and our special command, to seize and subdue all and singular such spoilers, pirates, exiles, and outlaws, wheresoever they shall from time to time be found; and, if they cannot otherwise be seized, to destroy them, and to bring all and singular of them, who are captured, into one of our ports, and to hand over and deliver them, when so brought in, to our commissioners in that behalf . . . [*with power to press and discipline mariners; dated 20 Oct. 3 Hen. VIII.*].

Rex &c. dilecto et fideli nostro Johanni Hopton, uni generosorum hostiariorum camere nostre, Salutem. Quia

ex nonnullorum fidedignorum relatione informamur quod quamplures predones, pirate, exules, et banniti, modo guerrino supra mare arraiati existentes, nostros subditos et fideles ligeos ibidem expugnarunt, ac suas naves bonaque et mercandisas depredarunt et spoliarunt, indiesque expugnare, depredare, et spoliare, satagunt pro viribus et proponunt, in nostre Regie dignitatis gravissimam offensam, et populi nostri et aliorum mercatorum ad regnum nostrum confluentium terrorem et injuriam et detrimentum manifesta; Que nolumus, sicuti nec debemus, relinquere impunita, set ipsorum malitie in hac parte, cum, Dei adjutorio, obviare et resistere volentes, ut tenemur; De tua igitur fidelitate, industria, et provida circumspectione, plenarie confidentes, assignavimus, ordinavimus, et constituimus, te capitaneum, gubernatorem, et principalem conductorem, tam omnium et singularum navium, quam omnimodorum magistrorum, vicecapitaneorum, marinariorum, soldariorum, et aliarum personarum quarumcunque, quas nunc ex hac causa ad proficiscendum in comitiva tua, Deo dante, mittere et destinare intendimus et proponimus; Dantes et concedentes tibi plenam tenore presentium potestatem et auctoritatem ac mandatum speciale omnes et singulos hujusmodi predones, pirates, exules, et bannitos, ubicunque inveniri poterint, de tempore in tempus capiendi et debellandi, et, si aliter capi non poterunt, destruendi, ac ipsos omnes et singulos per te sic captos in aliquem portum portuum nostrorum ducendi, eosque sic ductos nobis aut nostris in hac parte commissariis tradendi et deliberandi . . . [*The usual powers of pressing seamen and enforcing discipline follow.*]

1512-1537. Treaties, Statutes, Instructions, &c.

The first French war of Henry VIII supplies some important documents on prize law, all of which are printed in Rymer. In 1512 instructions were issued as to search for enemy goods in friends' ships; it was to be made by 'the most sadde men and souldiers,' presumably so as to avoid trouble so far as possible, but if resistance was made the order was 'to assaulte

and take them with a strong hand'; Rymer, xiii, 331. After peace was made the two countries entered into a treaty 'of depredations,' which contains provisions as to the trial of all cases of captures made at sea, and for security being given for the good behaviour of all traders before sailing, as in the treaty with France of 1498; Rymer, xiii, 331. It also contains provisions regulating privateers, which are the foundation of those issued in 1585 (*infra*, p. 236), and subsequently. The resuscitation of the Admiralty Court, of which the records commence about 1520, is probably connected with this treaty, as are also the statutes of 1536 and 1537 (27 Hen. VIII, c. 4, and 28 Hen. VIII, c. 15), which erected a new tribunal for the trial of piracy as a criminal offence. It seems to have been more efficient than the old common law courts or the Admiralty Court; no record has been found of a pirate being hanged by the latter, and only three by the former, whereas 22 were hanged in the years 1549-51 and 113 in 1561-83; *Lansd. MSS.* 142, f. 80.

1536. Proclamation of neutrality.¹—*Harl. MSS.* 442, f. 99.

The King's most Royall Majesty, most prudently considering the great warres and hostility, both by land and sea, commenced and like to continue betweene the Emperor and the French King, and calling to his most gracious remembrance that his Highnes is knit in league and amity with either of the said Princes, not entending without honest and just occasions to violate the same, but so to order and direct himself and his subjects in all his proceedings that no manner of suspicion of the leaneing more to the one parte then to the other shall appear in anie time in his grace, but that alwayes he may declare himself in

¹ This war raised a question as to the jurisdiction of the English Admiralty to adjudicate upon prizes taken by a foreign captor; see *Naval Miscellany*, ii, 4; also as to the liability of a friend's ship, with enemy goods on board, to condemnation; *Admiralty Court, Libels* 3, No. 6.

this poynt of newtrality upright and indifferent, as to a Prince of honour, troth, and virtue, apperteyneth. And forasmuch as it is credibly reported unto his Highnes that divers of his subjects, not regarding the amity and league betweene his Highnes and the said Princes, doe daylie cloke and colour in their names the goods and marchandises aswell of Frenchmen as of Flemynges, whereby both parties suffer losse and detriment in their prizes,¹ contrary to his graces mynd and pleasure. His grace therefore willing to redresse and reforme the same, straightlie chargeth and commandeth all and singuler his most loveing subjects that from henceforth none of the same doe enterprise or attempt to cloke or colour by anie meanes, directly or indirectly, any manner goods or marchandises of any of the subjects, either of the Emperour or the French Kinges, upon paine of the Kinges high displeasure and indignacion and forfeiture of all their goods, and also imprisonment of their bodies at the Kinges will and pleasure. Et hoc sub periculo etc.

Teste Rege apud Brerchurch xix die Augusti anno xxviiij°.

1536. Proclamation as to contraband.—
Admiralty Court, Libels 20, No. 64.²

. . . Yf any Inglishman coulde take any shippe, or other vessell, laden with victualls, or artillary, or any other thing, comyng oute of

¹ 'Prices' in original.

² This is taken from a pleading in a suit. In the war of 1544-45 the Emperour agreed with Henry VIII that his ships should not carry victualls or war material to the French, and a list of contraband goods was appended; *S.P. Spain*, Feb. 2 and 14, 1544, April 6, 1545.

France to Scotland, to the intente to ayde or succour the same realme of Scotland, that then the same Englishmen shulde take the same shipp or vessell so laden, and bring hym to the next boroughe, village, or markett towne in Ingland that they coulede safelye come to, and there to make sale thereof at such price or pryces as the judge or justice of the same place where yt were so putt to seale thinke reasonable, gyffynge the merchaunts thereof the hole sume thet so shulde arise or grow of the same goods so taken.

1542 (*circa*). Order by the Lord Admiral to press seamen for the 'voyage de conserve' of the wine fleet.—*Admiralty Court, Exemplifications* 1, No. 23.

I hartely commend me to you. And whereas dyvers of the marchauntes of Hampton and Poole are now in a redines for the Sowthe and lack marryners, this shalbe to wyll you to make for theym a commyssyon under thadmyrall seale to take upp so many marryners as they shall neede, to be taken at Lyme, and from thence west warde. And that also you make owte a lyke commyssyon as you dyd for theym of London and Brystowe to keape in lyke conserve togethers, so as the masters be sworne to that effect, whereby they may be more in suertye. Thus referring this to your discretion I hartely commytt you to God, and wyll that you gyve further credit unto this bearar, who shall gyve you full advertisement of all other procedings of Poole and Hampton in this behalffe. Wrytten at the Court this Weddensdaye the xix daye of Septembre

by your assured

J. RUSSELL.

1542. Oath to be taken by the master of a ship sailing in a 'voyage de conserve.' *Admiralty Court, Letters of Marque Bonds* 2, bdle. 7, *ad init.*

This ys the othe of Thomas Lynche, master under God of a good shippe called the Mary Fortune of London, beyng sworne before the president of the kinges principall courte of his Grace's high admiralltie of England.

Ye be sworne that ye shall well and truely serve this presente viage into Galisia as master of the saide shippe, whereof ye be appoynted, accordyng to the care truste and charge to you committed. And ye shall departe from this presente porte and havon of the ryver of Thamys at London withe your Vice Admyrall, the Christopher Bennett, appoynted to leade governe and conducte you untill ye come within perfecte sight of Ortyngale or Siffarga in Galisia, and then to departe withe the Mary Katheryne of London, your Vice Admyrall, frome thense forwarde and whomewardest assigned and appoynted. And by any colour fraude gyle or other cause of disceyte, ye shall not willingly forsake or leave the compenye of your saide Vice Admyrall severally deputed, and the reste of suche Englysshe shippes as be appoynted tattende uppon them, accordyng to thordinaunces and commissions to them delyveryd, duryng this presente viage to the portes and places of your commen discharge outwarde and whomwarde assigned. And that ye shall not touche in any other porte then oonly that ye be appoynted unto withe your saide vice admyrall for Galisia, as far furthe as winde and wether shall serve you. And by all your

witte, power, knowledge, and experyence, ye shall ayde helpe and assist the said Vice Admyralls, and all your compenye of Englisshe shyppes as then be severally appoynted and deputed unto you, followeng, kepyng, obeyeng, and observyng, aswell thorders devyses and articles annexed to their commissions, as also all suche other orders and dyvys¹ as by your saide Vice Admyrall and compenye appoynted for Galisia, or the more parte of them, shalbe thoughte good and expediente to be followed and observed, untill ye returne agayne from this viage into the place of your discharge at the saide porte and havon of the ryver of Thamys. And that ye shall kepe the Kynges peax uppon the see, and no quarrel make, procure, or seeke to be made with any forraigne princes, subjectes, beyng in peax and amitie withe his Majestie and his Graces realme of England, nor cause to be doon or doe any force or violence contrary to the Kinges peax, but oonly in diffence of your saide severall Vice Admyralls, yourselfe, and your compenye. And that ye shall well and truely observe and kepe every Article expressed in thys present othe, manifestyng and declaryng the same to your compenye and maryners, and charge them to be obediente unto the same, as every of them wool answer to the contrary uppon ther perill. Yoven under the seale for causes of the pryncypall Admiralltie of England the xxvjth daye of Novembre, in the yere of our lorde God 1542 and the xxxiiij yere of the raigne of [Henry VIII &c.].²

¹ Devices?

² The wine fleet sailed under convoy as early as 1338, Rymer, iv, 835; and the King's ships sometimes loaded wine.

1543. Bill of sale of seven Breton prisoners by their foreign captor.—*Admiralty Court, Oyer and Terminer* 34, *ad finem*.¹

Be it knowen unto all men by these presentes, that I, Job Williamson, of Camfair, in Zelande, capitaine in a shippe of warre called the Hubert of Ermewe, and Anthonie Durwell, captain in a shippe of warre callyd the Christiaine of Ermewe, for the somme of twentie and five powndes of sterling, to us, the saide Jobe and Anthony, contentyd and paide, the daye of making hereof, by Richard Prediaux, Richarde Hoke, John Pyme, and John Plumley, of Dert-mouthe, have clerelie bargained and solde, and by theis presentes do clerelie bargain and sell, unto the saide Richard Prediaux, Richarde Hoke, John Pyme and John Plumley these seven Briton prisoners owrs² whose names folowe, that is to saie, Fraunces le Rowse, Michael Tregent, Geffrey Rawle, John Johan, John le Baille, Gwillam le Vele, and Arthur le Vele; whiche Briton prisoners weare taken by us, the saide capitaines, in a balinger, called the Margaret of Lazadrue, upon the coast of Normandie; So that the said Richard Prediaux, Richard Hoke, John Pym, and John Plumley, shall enjoy, use, and ransome, the saide prisoners at their pleasures, and in as ample and lardge forme as we the saide captains myht have usyd and ransomed them, if they hadd continued with us. And we, the saide Jobe Williamson and Anthonie Durwell, bynde us, our heires and

¹ In 1591 Nottingham directed that those having letters of marque should seize and deliver to the wives of Englishmen imprisoned in Spain thirty Spaniards 'of the best sort,' to be disposed of by them for the redemption of their husbands; *Adm. Ct. Exempl.* 28, No. 219.

² *Sic.*

executors, and all our goodes, wheare soever they maie be founde, to warrant the said prisoners unto the saide Richard Prediaux, Richard Hoke, John Pym, and John Plumley; and over that, tacquite dischardge them against all men concerning the premisses by these presentes. In witness whereof we the saide Jobe and Anthonie have signed and sealed this Bill with oure owne handes. Geven the vjth daie of Decembre in the xxxvth yere of our soverain Lorde King Henry the Eight. Thes bering witnes, John Adams, maior of Dartmouthe, Nicholas Langmede, William Wakeham, of Dertmouthe aforesaide, Jake le Lyne capitain in a shippe callid the Mary of Camfair, William Cosse maister in the same shippe, Garrett Garetson capitain of the Swan of Camfaire, and others.

JACQUE DE LUIGNE (?)

1543. A proclamation ordeyned by the King's Highnes by the advice of his most honorable Counsell the xxth daie of December, the xxxvth yeare of his raigne, whereby his Majestie licensed all his subjects to esquipp as manie shipps & other vessells to the sea against his enemies, Scotts & Frenchmen, as they shall thinke good, with certain privileges graunted for the same.—*Harl. MSS.* 442, f. 170.¹

The Kinges most royall Majestie being credibly informed that divers and manie of his most

¹ References to records touching the duties of neutrals are given in *Harl. MSS.* 424, f. 16.

loving faithfull and obedient subjectes inhabiting upon the sea coasts, using trafique by sea, and divers others, be very desirous to prepare and esquipp sundry shippes and vessells att their owne costs and charges to the sea for the annoyaunce of his Majesties' enemies, the Frenchmen and the Scotts, so as they might obteyne his most gracious licence in that behalf, Hath, of his clemency, tender love, and zeale, which he beareth to his subjects, by the advise of his most honorable counsell resolved and determined as hereafter followeth :

First his Majestie is pleased, and by the authority hereof giveth full power and licence to all and singuler, his subjectes of all sorts degrees and conditions, that they and everie of them, maie, att their liberties, without incurring anie losse, dainger, forfeiture, or penaltie, and without putting in of anie bonds or recognizance before the Counsell, or in the Court of the Admiraltie, and without sueing forth of anie other licence, vidimus, or other writing, from anie counsell, court, or place, within this realme, or anie other his Majestie's realmes and dominions, prepaire and esquipp to the seas such and so manie shippes and vessells furnished for the warre, to be used and imployed against his Grace's said enemies, the Scottes and Frenchmen, as they shall be able to thinck convenient for their advantage and the annoyance of his Majestie's said enemies. And his Majestie is further pleased, and by theis presents graunteth to everie of his said subjects that they, and everie of them, shall enjoy to his and their owne proper use, profit, and commoditie, all and singuler such shippes, vessells, municion, marchandizes, wares, victualls, and goods of what nature and quality soever it be, which they shall take of anie of his Majestie's said

enemies, without making accompt in anie court or place of this realme or anie other the Kinge's realmes or dominions for the same, and without paying any parte or share to the Lord Admirall of England, the Lord Warden of the Fyve Ports, or anie other officer or minister of the Kinge's Majestie, anie use, custome, prescription, or order to the contrary hereof used heretofore in anie wise notwithstanding. And his Majestie is further pleased that all and everie his said subjects which upon the publication of this proclamation will sue for a duplicate of the same under the great seal of England, shall have the same, paying only the petty fees to the officers for writing the same.

And, seeing now that it hath pleased the Kinge's Majestie, of his most gracious goodnes, to graunt unto all his subjectes this great libertie, his Highnes desireth all maiors, sheriffes, bailiffes, aldermen, and all other his Grace's faithfull officers, ministers, and subjectes of this realme, and other his Highnes' realmes and dominions, and speciallie those which doe inhabit in the port townes and other places neere the sea side, to shewe themselves worthy of such libertie, and one to beare with an other, and to helpe an other, in such sort as their doing hereupon may be substantiall, and bring forth the that effect that shall redound to his Majestie's honor, their owne suerties, and the annoyaunce of the enemies.

Provided alwayes that no man which shall goe to the sea by virtue hereof presume to take anie thing from anie his Majestie's subjects, or from anie man having his Grace's safeconduct, upon the paines by his Majestie's lawes provided for the same.¹ And his Grace is further pleased

¹ The form of bond for good behaviour entered into by the privateer will be found in *Acts P.C.* 6, 9, and 11 April 1543.

that no manner of officer, or other person, shall take anie marriners, municion, or tackle from anie man thus esquipping himself to the sea, but by his owne consent, unles his Majestie, for the furniture of his owne shippes, doe send for anie of them by speciall commissions, and where need shall require. His Majestie will also graunt commission to such as will sue for the same for their better furnitures in this behalf.

1544.¹ Legal opinions as to whether, in time of war between the Emperor and France, a ship of Ragusa, with Venetian goods on board, captured by Frenchmen, and retaken by Dutchmen, was good prize to the Dutchmen.—*S.P. Dom. Mary*, Vol. 4, No. 42.

In tyme of warre betwene Themperor and the frenche Kinge, merchauntes of Venyse, being in peac with both princes, laden a shipp of Ragosa wythe merchaundizes of their mere proper for Andewarpe. A frencheman of warre, having noe cause neyther by pretense of warre, nor other wayes, neyther to the said shipp nor goodds, but pretending, (as hit is supposed), that in the same ship was enemes goodds, taketh the ship and goodds, and putteth in the Ragosa shippe certayne frenche maryners, and shipped the merchauntes factour and the maister owte of the Ragosa into the frenche ship, intendyng to leade him into fraunce. And wythyn syx or seven howers after suche apprehension a Duche

¹ This appears to be the date endorsed; the document is wrongly calendared under Mary.

shipp of warre, being on the see, metyng the frenche shipp, and the Ragosa, maketh chase to them, and in the chase taketh the Ragosa, and not the frenche ship. The question is whether, this case thus standing, the shipp and goodds be to the Dutche men a juste prize or noe.

The case above written beinge in all poyntes true, I thinke that neither the shippe, ne goods be to the Duche men a juste prize.

RICHARD LYELL.

The case as it is putt being trew, fully and holye, I do thynke the sayd goods appertaynyng to the Venetians was never lawfull pryse to the Frenche men, and so consequently the doche men can nott retayne by justyce the sayd goodds as their lawfull pryse.

JOHN ROKEBY.

The opinion of me, William Cooke, ys that the duche men cannot calenge the sayde shippe and goods as juste pryse, except they prove that they were the gooddes of the french Kynges enimyes, and that, if they were taken within the emperor's or french Kinges domynyons.

[*Unsigned.*]

The case not alteryd, I suppose the voyage to be to no juste purpose for the duche men.

JOHN BARBAR.

I, Anthony Huse, president of the Admiralty court of England, agree with the above written opinions of my friends, the four learned doctors, whose signatures are above ; and, in my opinion, the law in the case submitted to us is as they

state it ; with all respect to the better judgment of those learned men.¹

ANTHONY HUSE, above named.

1545. Request by the Council to the Lord Admiral to grant a safe-conduct to merchants of Bruges trading to France, on condition that they carry no contraband.—*Admiralty Court, Exemplifications* 1, No. 158.

After our most hartye commendacions. It may like your good lordship tunderstand, that thempereur's Ambassador resident here hath made suit unto the King's Majestie for a sauf conduct to trafficq unto Fraunce, for two marchauntes of Bruges, whose names be conteyned in a schedule here inclosed. And albeit his Highnes thinketh it not nedefull for them to have any such, yet his Majestie is pleased to satisfye somewhat the sayde Ambassadors request, and therefore prayeth your lordshipp forthwith to gyve such order in writing to all the capitains etc. upon the sea under the seal of your office that the sayd twoo marchaunts maye freely trafficq, as aforesayd, with their merchandise marked with the marks set furth in the sayd schedule, with a proviso that they do not cary any thing prohibited, nor yet set their sayd mark upon any

¹ This opinion is in Latin, as follows : *Censuras supradictas charissimorum quatuor dominorum doctorum suprascibentium ego, Anthonius Huse, preses curie Admiralitatis Anglie, approbo, ac sic jus esse in casu supra specificato, meo judicio, arbitratione salva meliori doctorum nostrorum virorum hujusmodi.*

ANTHONIUS HUSE, qui supr'.

of thenemies goodes. And thus fare your good lordship moost hartely well. From Okm' the xxvjth of August 1545.

Your good Lordships assured freends,

STE. WINTON, WILLM. PAGET, WILLM. PETRE.

Addressed to Ld Viscount Lisle, High Admiral of England.

1549. Bond to be taken for the good behaviour of ships licensed to pass to the sea against the King's enemies.—

*Adm. Court, Oyer and Terminer 34, ad finem.*¹

To our trustye and well belovyd the customer and Vice Admirall of Devon, or to one of them, by this shewed to take a trew copie thereof to execute the contentes of the same, and thereupon forthwith, after the trewe copie thereof taken, to make redelyvery ageyne to the parties within namyd or to one of them.

After our hartie comendacons, fforasmuch as we have lycensyd Christofer Savere, John Buggyns, John Wotton, Richard Foller, Alexander Colles, John Samys, and William Harwell, owners of the Bark callyd the Christofer of Totnes, of the burden of fyftie tonnes, the George of Totnes, of the burden of fortie tonne, the John of Totnes, and a lytle pynes of the burden of xx tonne, and the Post of Dartmouthe, of the burden of xx tonne, to passe at ther owne adventures againste the Kinge's majestie's enymyes, and to furnyshe the same with haulf maryners

¹ A copy. Cf. *Acts P.C.* 25 September 1547 for the Order in Council. Forms of the bonds of 1543, *Ibid.* 6, 9 and 11 April 1543.

and thother haulf souldiers ; Theis be to wyll and commande you, on his highnes' behaulf, to permitt and suffer them, and every of them, withowte lett or interrupcion, fynding sufficient suertyes before ther departure that they shall neyther impeache nor take from any the Kinge's majestie's subjectes, frends, or alyes, anye merchandyzes, vittels, municons, or any other kynde of thing or thinges, to the value of one pennye, uppon payne of forfeiture [of] ther sayd bands, imprisonment, and fyne, at his highnes' pleasure, to passe only against the Kinge's majestie's enymyes, and not otherwyse. Whereof fayle ye not. Thus fare you well. ffrom Grenewych the xxvjth of Maye, anno 1549.

your loving frend,

E. SOMERSET.

1557. Proclamation¹ licensing all subjects of the King and Quene to set forth ships against their enemies.—*Adm. Court, Libels* 31, No. 76.

BY THE KYNG AND THE QUENE.

The King and Quene's Majesties, being credible enfourmed that divers and many there loving faythfull and obedient subjectes, inhabityng uppon the sea costes and usyng traffyque by sea, and dyvers others, be very desirous to prepare and esquippe sundry shypes and vesseles at there one costes and charges to the sea, for the anoy-

¹ The original is in print. It is addressed to Lord William Howard, the Lord Admiral, and is amongst the papers of a suit of 1557. There is a draft of it in *S.P. Dom. Mary* xi. No. 24. A similar proclamation was issued by Henry VIII in 1544; of this there is an eighteenth-century copy in *Harl. MSS.* 442, f. 170.

aunce of there Majesties' enemies, the frenchmen, so as they myght obteyne their gracious licence in that behalfe, have of their clemency, tender love, and zeale, which they beare to their sayd subjectes, by thadvyse of their honorable Counsayle resolved and determined as hereafter foloweth. Fyrst, their Majesties be pleased, and by the auctoritie hereof gyve full power and licence to all and singuler their subjectes of al sortes degres and conditions that they and every of them maye at their liberties without incurring any losse daunger forfeiture or penalty,¹ and without suing forth of any other lycence vidimus or other writyng from any Counsayle courte or place within this realme, or any other their Majesties' realmes and dominions, prepare and esquippe to the seas such and so many shippes and vessels, furnyshed for the warre, to be used and imployed agaynst their Graces sayd enemyes, as they shal thinke convenient for their advauntage and the annoiaunce of their Majesties' sayd enemyes. And their Majesties be further pleased, and by these presentes graunt to every of their sayd subjectes that they and every of them shall enjoye, to his and there one proper use, proffyt, and commoditie, al and singuler such shippes, vessels, municion, marchaundyses, wares, victuals, and goodes, of what nature and qualitie soever it be, which they shall take of anye their Majestyes' sayde enemyes, without makyng accoumpt in any court or place of this Realme, or any other their Majesties' Realmes or dominions, for the same, and without paying any parte or share to the Lord Admirall of England, the lord Warden

¹ In the draft the words 'and without putting in of any bonds or recognisance before the Council or Court of Admiralty' are here struck out.

of the five portes, or to any other offycer or minister of their Majesties, anye use, custome, prescryption, or order to the contrarye hereof used heretofore in any wise notwithstandinge. And their Majesties be further pleased that al and every their sayd subjects, which upon the publication of thys proclamation will sue for a duplicate of the same, under their great seale of England, shall have the same, payeng onely the pety fees to thoffycers for writing the same. And seinge nowe that it hath pleased their Majesties, of their most gracyous goodness to graunt unto all their subjectes this gret liberty, ther highnes desier all Mayres, Sheryfes, Baylyfes, Aldermen, and al other ther graces' officers, ministers, and subjectes of this realme, and other their realmes and dominions, and especially those which do inhabyte in port townes and other places neare the sea side, to shewe themselves worthye of such libertye, and one to beare with an other, and to helpe an other, in such sort as their doinges hereupon may be substancial, and bryng forth that effect that shal redownde to their Majesties' honor, their one suerties and annoy-aunce of the enemies. Provyded alwaye that no man whiche shall goe to the Sea by vertue hereof presume to take any thing from any of their Majesties' subjectes, or from any of their Majesties' frendes, that is to saye, of their owne goodes, nor from any man having their graces' safe conduct, upon the paines by their Majesties' lawes provided for the same. And their Majesties are further pleased that no maner officer or other person shal take any mariners' municion, or takle, from any man thus esquipping him selfe to the sea, but by his owne consent, unlesse their Majesties, for the furniture of their owne

shippes, do send for any of them by specyall commission. And where nede shal requyre their Majesties wil also graunt commissyon to such as shal sue for the same for their better furnitures in thys behalfe. Geven at our pallaice of Westminster the ix daye of June the third and forth yeares of our Reygnes.

God save the King and the Quene.

The following note in Caesar's handwriting is in *Adm. Ct. Exemplifications* 34, No. 3:—

Licences made anno 1558 [by] the Admirall for such ships, captains, masters, and mariners, that have passed to sea on war fare, with sureties 500^{li} bond for good behaviour of every ship by warrant from the Admirall.

1 May 1558 shippes of Dansk bound in 1000^{li} each not to goo to the enemy of the King Philip and Queen Mary. Both appeared by record uppon the files of the Admiralty register of anno 1558.

1557. Order of Council¹ as to enemy goods in friends' ships, and friends' goods in enemy ships.—*Admiralty Court, Libels* 28, No. 59.

The Frenshemen have lawes and doo putt the same in execution against the subjects of

¹ No such order has been found in the *Acts of the Privy Council*, but a letter was sent around by the Council, to the same effect, 'Forasmuch as it is confessed the Scottes, our enemies,' goods were in the same bottom, the prise cannot be but good, according to the lawe mentioned in the schedule inclosed in your Lordship's letter'—the Council write to Lord Westmoreland 6 March 1557, mentioning also that a letter had been sent around directing that the rule was to be enforced against the Scots and French. In a case of 1545 the Act, 20 Hen. VI. c. i. s. 3, was relied on as condemning the ship; see *Insano c. Elsdon, Adm. Ct. Libels* 13, No. 5.

this realme whiche the counsell thinke convenient to be kepte lykewyse towardses them.

That yf the shippes of our subjectes do take by sea any other shippes appertayninge to any other our subjectes, or to our allies, confederattes, and friendes, in the whiche shalbe founde goodes, merchaundises, or men of our enemyes, or lykewise also shall take the shippes of our sayd enemyes, in the whiche shalbe founde the persones, merchandises, or other goodes of our sayd subjectes, allies, confederattes, and frendes, or in the whiche our said subjectes, confederattes, and allies, shalbe parteners in eny porcion, that then the whole shalbe judged to be of good prise.

1558. Recognizance compounding with the Lord High Admiral for £40 that the obligee should enjoy the whole of his prizes.—*Admiralty Court, Libels* 57, No. 1.¹

. . . The condition of this recognizaunce is such, That where the said Robert Hollande for hymself, and in the name of his cooparteners, vyctualers, and consorts, in theis present warres for the somme of fourtie pounds sterling hath compoundyd and agreed with the said right honorable Lord Admirall for all such shares and rights as his Lordship by vertue of his office, as thinges of awncyent custume dewe to the same, owght to have owt of such pryces as they have latelye takyn of thenemies, in parte of payment

¹ The condition only is here given.

wherof the said Robert, the daie of the date herof, hath paid to his Lordship twentie poundes sterlinge; Yf the said Robert, his heyres, executors, or admynystrators, or any of them, do well and trewlie content and pay, or cause to be contentyd and payed, unto the said Lord Admirall, his heyres, executors, or admynystrators, other twentie poundes sterling, in full contentment and payment of the said xl^{li}, on this side the feast of Easter now next cumynge, That then, etc., or ells, etc. Provyded nevyrtheles that if and incase be that any pryse or pryses takyn by the said Robert, or by any of his said cooparteners, vyctualers, and consorts, before the said daye of the date herof, be by due order of lawe at any tyme hereafter evicted and recoveryd of them or any of them, that then the said Lord Admirall is contentyd and pleasyd that the said Robert and his cooparteners, victualers, and consortes, shalbe repaid againe of the said xl^{li} so much as the shares and rights of the said prise or pryses so evicted and recoveryd shall extend unto, any thinge conteyned in this present recognizaunce to the contrary therof notwithstanding.

By me ROBERT HOLLONDE.

Fryday the second of December 1558, paid by me, Roger Parker, unto the right honorable the Ladye Clynton the bovesaid some of xx^{li} dew by the said Holland accordinge to his recognizaunce aforespecified.

E[LISABETH] CLYNTON.¹

¹ This lady helped her husband in money matters connected with his office. She was a keen woman of business, and wrote a beautiful hand.

1560. Queen Elizabeth to Lord Cobham, Warden of the Cinque Ports. Order to restore a ship of Dordrecht, captured under letters of reprisal granted by him contrary to treaty.—*Add. MSS.* 34150, f. 57.

ELIZ[ABETH], QUENE. . . .

Right trustie and welbeloved. . . . Whereas the Ambassador from our good brother, the Kinge Catholicq, hath declared unto us the towne of Dordrecht, in Holland, with their ships and goodes, by vertue of letters of reprisals graunted out of our Five Portes to one Walter Chaderton of Sandwich, against one William Williamson, inhabitaunte of Dordrecht aforesaid, are arrested at our towne of Dover ; Like as we cannot a litle marvell, both at the graunting owt of thies letters of reprisall, and at this arrest, considering the same is directlie against the treatie of amitie concluded between our dearest father Kinge Henry theight and the late Emperor Charles, as you shall perceave by the copie of an article of the said treatie, touching such letters of reprisalls, sent unto you herewith¹ ; So our will and pleasure is that forthwith upon the receipt hereof, ye cause all such of the said men and ships as are so arrested by vertue of the said letters of reprisals to be set at libertie, and their goodes restored unto them ; and also to be fully recompensed for the costs, charges, and damages, they have susteyned through this their arrest ; And as touching the principall matter which the

¹ A copy (mutilated) of the tenth article of the treaty of 1542 is enclosed. The document in the text is also mutilated, as appears by the modern copy here reproduced.

said Chaderton doth pretende against the said Williamson, the said ambassador hathe promysed that answeere shalbe made unto the same, as thordre of the lawe shall ordaine. Yeven undre our signet at our pallace of Westminster, the iij^d of May, the seconde yere of our reign.

1560 (*circa*). Grant by Elizabeth to Lord Clinton,¹ Lord High Admiral, of one third of his prizes.—*S.P. Dom. Eliz.* xii, No. 35.

BY THE QUEEN

Right trusty and well beloved, We grete you well. And where, aswell for the better savegard of our realmes and dominions in thes present warres, as for thannoyaunce of thennemyes, we have set furth a navye to the seas, and committed the chief charge and rule therof unto you, as our high Admirall; We late you wite that, in consideracion of your said charge, we are pleased that of all such prises as are or shall happen to be taken upon thennemyes of our sayd navye, or by any ship or vessel of the same, being in our wagis, ye shall have for your part and share the third part; takinge good and substantiall waye for the reserving of the rest of any such prises to our own use and behove, according to the speciall trust we do repose in you. And thies our letters etc. Yeven etc.

¹ Afterwards Earl of Lincoln. The document is a draft or copy. Nothing similar has been found in the *Patent Rolls*. In 1524 Christopher Coe, in a King's ship, accounted to the Admiral for half his prizes—*Let. and Pap. Hen. VIII*, iv. pt. 1, No. 83; and in 1512 the King and his Admiral shared prizes—Rymer, xiii, 328.

1560.¹ Letters of reprisal granted by James IV, King of Scotland.—*Royal MSS.* 13 B. I, f. 287.

James, by the Grace of God King of Scotland, to all and singular, kings, princes, and magistrates of the whole of Europe, wishes lasting happiness. Whereas, of late, John Berton, whilst returning from a French port in Flanders, was captured by some men of Portugal, who spoiled him of his ship, and slew some of his crew ; and [whereas], after suing at law and using all possible means of recovering her he has been made sport of ; We, James the Fourth, the said King of Scotland, have finally determined to grant, as we rightly may, to Andrew Berton, junior, son of the said John Berton, and to his heirs and assigns, more particularly, to Robert and alike to John Berton, brothers of the said Andrew Berton, by reason of the [aforesaid] denial of redress for injuries and of restitution of the goods spoiled, letters of reprisal for the recovery of [the value of] the goods so captured [as aforesaid] ; so that, wheresoever the said Andrew or his brothers or his assigns shall, on the sea or on land, meet with, or be able to seize, any man or men of Portugal, it shall be lawful for the said Andrew Berton and his brothers, their heirs or assigns, with all their strength to capture and spoil [them], until full satisfaction be made to the [said] three brothers for the loss of their ship and the destruction and spoil of all the goods that were in her, and for the men, seamen, and relatives of the said Andrew and his brothers, who, to the number of seven, were slain, [and also] for the costs of their suit, the whole loss

¹ This is the date of the copy ; see next page.

amounting to the sum of 12,000 Portuguese ducats. [These presents] given under our privy seal, are thus signed by our hand, in the fifteen hundred and sixth year of the Lord, before these witnesses, [namely], James Forman, William Wod, John Douglas MacAdam, our attendants, and many others.

JAMES.

This is a true copy &c. [*Witnessed by a notary and dated 28 Aug. 1560.*]

Jacobus, Dei gratia etc., Rex Scotorum, universis et singulis totius Europe Regibus, principibus, et magistratibus optat felicitatem perpetuam. Quum olim portu Gallorum redeunte e Flandria Johannes Berton, Nos, dictus Rex Scotorum, nempe Jacobus Quartus, dicto Andree Bertonn juniore, filio Johannis Bertonn, qui captus fuit a Portingalis, [qui] navem Johannis spoliaverunt, cesis etiam nonnullis, atque ille omnibus modis sua repetens, et jure agens, elusus esset, placuit tandem nobis et jure concedimus dicto Andree Bertonn, et heredibus suis et assignatis, viz., Roberto precipue et Johanni Berton, fratribus dicti Andree Bertonn, equaliter, ob denegatam ereptarum injuriarum, rerum restitutionem,¹ repressariarum literas, ut ubicunque dicti Andreas, et fratres ejus vel assignati, convenient, vel comprehendere poterunt, aliquem vel aliquos Portingallum vel Portingallos per mare vel terras, liberum sit dictis Andree Berton, et fratribus et assignatis eorum, capere, spoliare, pro suo virili quousque¹ Portingallos, semper et quousque satisfactus fuerit, equaliter dictis tribus fratribus pro dampno navis et perditione et spoliatione bonorum omnium que in ea nave extiterunt, et cesis viris, nautis, et consanguineis dicti Andree et fratrum ejus, numero septem virorum, litis sumptum, summa totius extendente ad duodecim millia ducatorum Portin-

¹ Sic, in original; the sense seems to be as in the translation above.

gallorum. Datum sub sigillo nostro secreto, et subscriptione manuali, anno Domini millesimo quingentesimo sexto, die vero mensis Novembris vicesimo, et regni nostri decimo nono, coram hiis testibus, Jacobo Forman, Willelmo Wod, Johanne Dowglas Makadam, servitoribus nostris, cum diversis aliis, sic subscribitur.

JAMES.

Hec est vera copia originalium literarum repressiliarum seu marcie &c. [*Witnessed by a notary.*]

1562. Fighting in territorial waters.—*Lansdowne MSS.* 5, f. 82.¹

Elizabeth writes to Mary of Scotland as follows :

Right excellent, right high and mightie princesse, our dearest syster and cosyn. We commend us right hartlie unto you. We have been enformed on the behalf of our subjects, William Cawson, William Smythe, and others, that they lieing aboute foure yeares past in an harborowe neigh thisle of Westmone,² within the territorie of our good brother the King of Denmarke, certaine your subjectes named Thomas Nicholson and John Hodge, with their complices, violently toke from them two shippes, all thapparell, tacle, municion, and wares to the value of mmviii^{li} &c. &c.

The letter goes on to ask that restitution may be made and justice done. The facts are more fully set forth in a paper annexed to the letter, containing a statement, apparently by the judge of the Admiralty, of the law applicable, as follows :

The taking of the shippes within the harborough, domynion, and territory of the King of Denmark cannot be justified in lawe, albeit the

¹ In 1528 a Frenchman chased a Fleming up the Thames to the Tower, where both were arrested by Sir Francis Walsingham, the Constable ; *Add. MSS.* 12496, f. 403.

² Off Iceland.

warres continued then [in 1558] between us and Scotlande. For the territory of an indifferent and meane prince is sauf conducte in lawe.

1563. Recognisance in £500 for the good behaviour of the John Appliard¹ by Martin and John Frobisher.—*Admiralty Court, Letters of Marque Bonds, 1.*

The condytion of this recognizance ys suche that if the above bounden Martyn Furbiger, presently departing unto the seas towardes Newhavon, in France, in one shippe called the John Appliard, of the burden of ann hundred tonnes, do with his master, maryners, and suche other personnes as shall sayle with hym in the sayde shippe, by all the tyme of ther beinge at the seas, honestly behave and demean themselves, and doo not robbe, spoyle, infest, trouble, evill intreate, apprehende, ne take any Portingales, Spaniardes, or any other persouns whiche be in league and amitie withe her majestie, but doo suffer all suche, her highnes' frendes, with ther shippes and goodds quietlye and freelye to passe and goo by him and his withoute any molestatyon, lett, impeachment, disquiett, or hurte, that then — [*the recognisance to be void*].

MARTIN FROBBYSSHER, JOHN FROBYSSHER.

¹ For the Frobishers' connexion with John Appleyard, see *Engl. Hist. Rev.* xxi, 538. Instructions to Vice-Admirals of the coast were issued in 1563 with reference to piracy and privateering without a commission. Ships suspected of such practices on arriving at an English port were to be arrested; and no armed ship was to be allowed to sail without giving security for good behaviour; and Vice-Admirals were warned against harbouring or countenancing pirates; *Salisbury MSS.* i, 286. In the following year a proclamation to the same effect was issued; *S.P. Dom. Eliz.* xxxiv, 42.

1563. Warrant to the Warden of the Cinque Ports to issue letters of reprisal.—
S.P. Dom. Eliz. Vol. xxviii. No. 59.

ELIZABETH R. BY THE QUEENE.

Ryght trustie and welbeloved, we grete you well. Know you in what sort the French do daylie in sondry places upon the narrow seas, and specially nere the Cinque Portes, take our subjectes' vessells, and kepe some of our people as prisoners, and others deliver upon ransomes, and yet the king forbeareth to publish any warr against us; Wherefore considering no remedy can be had but by like proceding, We will that you shall, with some secrecy and spede, procure some such within your jurisdiction as ye shall think mete to repaire to the seas, and to be as bold upon the French King's subjectes, using the same in like manner as the French do. And yet, because we know not what the issue of these troubles shalbe, ye shall do well to enjoyne our subjectes strongly to take no manner of thing, but thereof to make perfect inventory, and to procure the handes and markes of the French to be thereto added; and, beside that, to cause the same to be safely bestowed, so as it may be answered as cause shall require, with consideration to be had to the chardges of the parties. And this, our pleasure is, ye shall do without any notice to be gyven to any person that ye are so prescribed. Yeven under our signet, at our pallace of Westminster the xxiiijth of Maye, in the vth yere of our reigne.

1563. Commission to Thomas Stucley to command and discipline the crews of five ships upon a voyage of discovery to Terra Florida.¹—*Admiralty Court, Exemplifications* 6, No. 4.

Edward Fynes, Knight of the most noble order of the Garter etc. To my loving friend Thomas Stuckley, esquier, Greetinge. Where the Queene's moste excellent Majestie hath this at present licensed yowe to passe unto the seas, to saile unto the countrey called Terra Florida for the farther discoveringe of those partes of the same, whiche as yet be unknowne, beinge well contented and pleased that yowe shall furnish and take with yowe fyve shippes, for that your journey and voyadge, for the better accomplishinge and doinge of your service in that behalfe. And for that yt ys to be feared, (er your returne and cominge againe), that some of the masters, mariners, and souldiers nowe with yowe to be retained and placed in the said shippes, beinge in nomber three hundred and fyftie persons, may in the said voyadge and journey waxe disobedient, unrewly, careless of ther dewties, and growe to libertie, thereby refusing to be tempered and brought to goode conformitie and order, Yf any of them shoulde offende, whereby the saide voyadge might be letted or hindred, or further inconvenience might chaunce, yf waies and meane to brydell ther affections and owne wills, and to correcte and ponishe the same to kepe them in

¹ Abroad it was generally known that Florida was a mere pretext for piracy. For two years, though Stucley is stated to have actually landed in Florida, his robberies on the high seas were a scandal to Europe ; see *Dict. Nat. Biog.* lv. 124.

awe should not be ordained and appointed in that behalfe,

I, therefore, the said lord Clinton and Say, high Admyrall of England, and Captaigne Generall of her Majestie's Navye aforesaide, haveinge receaved her graces commandment and warrant for your farder despatch and lettinge passe of the saide shippes upon the foresaide voyadge, doo in her Majesty's name . . . (*grant of disciplinary powers over the crews afloat and ashore, so nevertheless that 'her Majestie's peax at no tyme to be violated nor broken'*).

1563. Letter from Lord Clinton, Lord High Admiral, to Arthur Champernowne, Vice-Admiral of Devonshire, and Sir Peter Carewe, as to taking inventories of, and bail for, prizes brought in.—*Admiralty Court, Letters of Marque Bonds*, 1.

Edward Fynes etc. To my lovinge ffriends Arthure Champernowne, Viceadmirall in Devonshire and the sea quoasts and places therunto adjoyninge, and Sir Petre Carewe, knight, Gretinge. Whereas heretofore order hathe ben gevon unto yowe for the good securitie of suche shipps and goods of the frenche kinge's subjectes as shulde happen to be taken by eny person of that coast goinge unto the seas, if the same by dewe order of lawe should be hereafter demandid and recoverid; For the better saffgard wherof and good provision herein nowe to be taken, Theis are to require yowe, in her Maiestie's name, and by vertue herof, to aauthorize yowe and either of yowe, that furthewith, uppon receipt herof, ye do not onely receyve and take into your

order and custodye suche shipps and goods as alredye be brought into eny harboroughe, or porte, of that quoast, for the better custodye of the same, but allso doe cause suche persons as shall hereafter be appoynted, prepared, furnished, and sett furthe unto the seas, for the apprehension and takinge of the lyke, before ther departure and passinge owte, to gyve unto yowe good and sufficient caution by substantiall suerties for the bringinge of every suche shipp and goodes hereafter to be by eny of them apprehended and gotten, into suche porte or place from whence they ar, as well for the better preservacion of the same, as allsoe for the redelivery and answeringe therof, if by dewe order the same shall hereafter fortune to be required. And of your doings herein from tyme to tyme ye shall gyve me tunderstand with all convenient spede. Yeven under the greate seale of myne office the second day of June 1563.

1563. Recognisance by Thomas Cobham to bring in prizes, not to break bulk, and to pay Admirals' tenths.—*Adm. Court, Letters of Marque Bonds*, 1.

On Wednesday, the 30th day of the month of July, in the year of the Lord 1563, and in the fifth year of the reign of our most serene lady Elizabeth, by the Grace of God &c., came to the principal Court of the Admiralty of England of said lady, the Queen, Thomas Cobham and Roger Fynche, of Borden', gentlemen, and acknowledged that they owed to the noble and all powerful, lord Edward Fynes, lord Clinton and Say, Knight of the most illustrious order of the

Garter, Great Admiral of England, etc., five hundred pounds of good and lawful money of England, to be paid to him, lord Edward Fynes, or to his appointed attorney, [or] to his heirs or executors, at the feast of St. Michael, the Archangel, after the date of these presents, upon the following terms and condition, and in default thereof, each of them [hereby] grants that execution may issue against them and each of them, and against their goods &c.¹

The condytion of this recognizaunce ys suche that, wheras the bovesaide Thomas Cobham ys by authoritie and graunte from the sayde right honorable Lorde Clynton, Lord Highe Admyrall of Englande, licensed to passe and resorte unto the seas with one shippe or vessell, to be well furnished for ther defence, to staye and bringe into any porte or havon of this her Majestie's realme suche Frenche shippes and goodes, and others under the Frenche Kinge's obeysance, as he or his assignes shall fortune there to mete withall; If, therefore, that the saide Thomas Cobham, or any other person or persons by him therunto appoynted, do uppon thapprehensyon and takinge of any suche Frenche or Brittishe² shippe and goodds, or any other under the saide Frenche Kinge's obeysance, nowe or hereafter by hym, or by any other in his name, to be prepared, rigged, sett furthe and taken, furthwith returne and bringe the same, before any bulke therof be broken or removed, into any harboroughe or porte aforesaide, and there doo cause the same safelye withoute spoyle, ryfflynge, or other disorder by any maner of meanes, to be reservyd

¹ The above is in Latin; the condition is in English.

² Of Brittany.

and kepte untill furder dyrection and order shalbe prescrybed and gyven in that behalfe, and theruppon doo transmitt and send uppe into her Highnes' principall Courte of her Admiyraltie a perfecte full and trewe certificathe by Inventarye indented, not only of the saide shippe or shippes, her or ther tacle furniture and apparell, with the names of the same ther masters and maryners, but also of the quantitie, nomber, kindes and particularitie of the gooddes, wares, and marchandizes, in her or them ladon and chardged, with the trewe markes and signes wherwith the saide gooddes are noted and marked, there surely to be kept to aunswer suche as shall make any claime or chalenge therunto, for the better restitution of the same againe, yf yt shalbe so thought goodd; And, furder, yf the foresaide Thomas Cobham, or any other person passinge or goinge furthe for him or in his name, doo not hurte, impeache, ne evill intreate, any of her Highnes' subjectes, nor any shippe vessell or goodds of the kinge of Spaine's subjectes, nor the shippes or goodds of any other prince other then the saide Frenche and Brittens joyned in league and amitie with her majestie, That then etc. or els etc.

TH. COBHAM.

(Endorsement as to the taking of the recognisance in the presence of the Registrar.)

1564. Opinion of civilians as to the law in the case of a capture made by one belligerent of a ship of the other in a friend's harbour.—*S.P. Dom. Eliz.* Vol. xxxiii, No. 18.

This statement of the law is contained in a letter addressed by Dr. David Lewes, judge of the Admiralty, to the lords of

the Privy Council, who had called upon him and his brother civilians for a report upon the following case which had come before the Council. In Mary's reign, there being war between England and Scotland, an English ship was attacked and captured as she lay in Westmony harbour, off Iceland, then belonging to Denmark. The English owner, failing to obtain redress either in Denmark or in Scotland, caused his ship, which happened to be in Lowestoft roads, to be arrested by process of the Admiralty Court, and was put into possession of her by an order of the court. She had, since her capture, been sold by the captor to another Scotchman, and at the time of her arrest there was peace between England and Scotland. After stating the facts Drs. Lewes, Weston, Huyck, and Mowse declare the law to be as follows :

We havinge weyde this case, with the circumstances therof, as behoved us, thinke that hit standeth with no lawe or reason that Smythe, havinge orderly come by the possession of his owne shippe, should be dryven to restore the same to Ramsey, the Scottishman that solliciteth this cause and claymeth to have boughte the same of the first takers. For all thoughe he were not the first spoyler, yet his title, beyng dereyved from the same fyrste taker, is no better then theirs. And to them was the said shippe no good prise, for whate so ever the enemye dothe take from thenemye in the harborowe of a frende, that is no prise; for the proprietie therof is not altered, but remayneth still in lawe with the first owners.¹

¹ So in 1559 Lewes wrote Cecyll, 'It is against the lawe, or the treatye, as I doe remember, that in time of warre one enemy shall annoy the other within the territory or jurisdiction of any prince that is friendlie to both'—*S.P. Dom. Eliz.* iv, 51. In 1568 a French ship captured in Plymouth Sound was restored, 'because the sayde shippe and goods were taken within her majestie's porte, whereby the same can be not good prise'—*Adm. Ct. Exemph.* 8, No. 19.

1568. Opinions of the doctors upon matters of prize law.—*Lansd. MSS.* 115, f. 245.

The opynions of the doctors.

Some of the doctors write that a prise can not be good onles it be taken on the sea within the jurisdiccon of one of the two princes in controversye.

Some doctors write that the sea is common to all people, and a prise ther taken from the enymie is good, so as the taker hath it into his owne harborowe xxiiij^{tie} howers; and some doctors expound the takers possession xxiiij^{tie} howers is the harborowe, and therfore lawfull prise.

Some doctors write that the sea is common and acounted as the ayre, and that he that finds his enymie one any plase of the sea maie take him as good prise, and for the same bringeth sondrie examples: as if a man killinge a hare in an other mans grounde maie lawfullie, onles it be by force of the lorde, carie it awaie, so maie he doe his prise.

To prove that a prise is good, being possessed xxiiij^{tie} howers, in quene Marie's tyme, this realme and Flaunders haveinge warres with Fraunce, the Frenchmen toke certeyn Flemishe shippes on the sea, and shortelie after one Giles Graie and others, Inglishmen, serveinge in the quene's shippes did beate the Frenchmen, and toke awaie their said prises, and brought them into the Themes; which the Fleminges understandinge, sued to have their shippes restored; which was not doen, because the Frenshe posseste them xxiiij howers, and from them was taken as before.

Further, by permission, that two princes in

enmytie, theyr subjects on the sea should not take one another but on such seas whereof one of them have jurisdiction, that may be a greate dishonour and discommoditie to the quene's majestie and her subjectes hereafter havinge warres with Fraunce, they cannot lawfully take the enymie, neither on the coast of Flaunders, Skoteland, Denmarke, Spaine, nor ells where but in the sea between England and Fraunce; nor havinge warres with Skoteland, cannot deale with the enymie but half seas over on the coste of England and Skoteland, but auncient custome and the lawe of arms, which hath bine allowed, and that if it please your honours you maie allowe and confyrme the lawe accordingle, which maie be mytche for the benefitte of this realme, as my lerned counsell hath geven me to understand.

[*Endorsed*] 7^{bre} 1568.

1569. A ship captured by a Frenchman at the entrance to Plymouth Sound, with Genoese goods on board for London, restored with the consent of the French Ambassador.—*Adm. Court, Exemplifications* 8, No. 19.

After our hartye commendacons; Where we be geven to understande that of late a small hulke laden with allam was, within the mowth of that havon, taken by a frenche shippe called the Brave of Conquett, beinge in the service of the Prynce of Condey; Forasmuch as the Cardinall Chastillion, beinge informed allso of this matter, thinkethe yt allso verye reasonable, aswell in respecte that the goodes laden in the sayde

shippe are alleagid to belonge unto marchaunts of Jeane, and were appoynted to be delivered here in London unto Benedict Spinola, marchant allso of the sayde cittye of Jeane, as cheefelye because the sayde shippe and goodes were taken within the Queene's Majestie's porte, whereby the same can be not good prise, that the sayde shippe and goodes shoulde be restored agayne to the owners thereof, and to that ende hathe wryten his earnest letters unto the Frenche captaynes that have the chardge thereof, to see the same delivered owte of hande. We have allsoe, for our parte accordinge thereunto, thought good to requyre yowe to take ordre that the sayde shippe and goodes be stayed and put in saffe custodie, withowte spoile, to be answered unto suche as shalbe fownde to have right thereunto. And uppon notice gevon from the courte of Thadmiraltie that sufficient bandes withe sureties have been put in there for the answeringe of the sayde goodes accordinge to justice, you shall deliver the same unto them, accordinge to suche proces as shalbe for that purpose addressed owte of the sayde courte. Whereof we require yowe not to fayle. And soe fare you well. From Westminster the xxvijth of Februarye 1568.

Your lovinge frends

T. NORFFOLK, F. BEDFORD, E. CLYNTON,
W. HOWARD, E. KNOLLYS, W. CECILL, R. SADLER.

The Maior and his bretherne
of the towne of Plimowthe.

1569. 'Letters of marque' to William and George Winter authorising them to seize, within the realm, Portuguese ships and goods in recompense for their losses; with recognisance of the Winters to surrender the letters when their losses were satisfied.¹—*Adm. Court, Acts* 13, 7 Feb. 156⁹.

Elizabeth by the grace of God Quene of England, Fraunce, and Ireland, Defender of the faythe etc. To oure right trustie and right well beloved Counseller, the Lord Clinton and Say, our highe Admirall, his lieftenent or deputie, and to all our Vice Admiralls, Justices, maiors, cap-taynes, and all other our officers, ministers, and subjects throughout our realme of England and Ireland and the dominions thereof to whome in this case yt shall appertayne, Greetinge. Whereas our good and faithfull subjects and servauntes, William Winter and George Winter, in the yere of oure Lorde God a thousand fyve hundred sixtie fyve, did at ther greate costes and chardges sett furthe to the seas one shippe named the Mary Fortune, with xxix persounes in the same, for trade of merchandize, whiche saffellie arrived in the river of Sesto uppon the quoast of Guiney, and in quiett manner did traffique with the people of that countrie, beinge freighted partlie with marchandizes of that countrie, and partilie withe other wares of this our Realme; and allmost readie to make saile homewards, the Armada of our good Brother and cosin the Kinge of Portugall,

¹ This is not a usual form of letters of marque; its meaning and effect, as to where seizures or captures were to be made, is not clear.

witheowte cause or occasion, did with all hostilitie, contrarie to all order of lawe, and reason, invade the sayde shippe, and the same did moste cruellie sinke, with all the goods and marchandizes in the same, amountinge to the value of seven thowsand six hundred pounds of our money of England, and xxj of the sayde personnes within the same shipp did carrye away as captives unto the castle of Saint George de la Mina, uppon the sayde quoaste Guinea, where they are unto this present moaste miserable deteyned as captives in moaste lamentable miserie and thralldom, as by good and due proffe taken by order of lawe yt dothe evidentlie unto us appere. And althoughe, at the moste pitifull complaynte of our sayde faithefull servaunts, we did by our letters in right ample manner certifie our said good brother of the premisses, requiringe satisfaction for the sayde acte, playnelie declaringe oure mynde, that for want thereof we neither woulde nor coulde forbere to provide for oure saide subjects and servauntes by suche meanes as the lawe woulde permitt us to doe, and did allsoe expresslie sende our speciall ambassador, lerned and fullie instructed, to oure saide good brother, withe large creditt in oure name, and in the name of the said William and George, who made complainte and full proffe of the premisses to oure sayde good brother, and did require satisfaction by all frendelie and quiett ordre of justice, as by the letters of oure said good brother, whiche we have receyved, and reporte of our said ambassador, yt doth right well appere. And allthoughe we had at that tyme noe other directe answer from our said good brother, but that he woulde shortlie after send some man of creditt hether, further to treat with us herein, yet

were we right well satisfied therewith for the tyme, untill suche tyme as we had, as well by oure self, as by our counsaile throughlie, withe good leasure, and at sundrye metinges herd suche answere as to us was made by the ambassador sent unto us for that purpose from oure sayd good brother, who farre contrarie to oure expectation did rather take uppon him to justifie the crueltie of the sayde fact, then to make anye offer of restitution or satisfaction for the damages and losses by oure sayde subjects and servaunts susteyned. So that after we had sought all other meanes by way of treatie and frendelie requests, and perceavinge that there was not no other to do justice uppon them of the said Armada but oure sayd good brother, by whose commission they went to the seas, of necessitie we were constraind, farre contrarie to our owne inclination, to provide for oure sayde subjects by suche other wayes as by ordre of justice in suche cases convenientlie we might. Wherefore we doe by these presents of oure mere mocion, certaine knowledge, and absolute power, licence and aauthorize our said subjects and servaunts, William Winter and George Winter, and their deputies, to be named and appointed in writinge under the handes of the sayde William Winter and George Winter, and to be allowed by oure Admirall or his lieftenant, and registred in oure courte of the Admiraltie, to arrest, sease, and apprehend, all suche shipps, goods, wares, marchandizes, debts, and things whatsoever apperteyninge, belonginge, or due to oure sayde good brother the kinge of Portugale, or unto any of his subjects, in what place so ever the same be fownde, within anye libertie, place, exempt or not exempt, within this oure realme, or anye oure

dominions, jurisdiccons, or districts, and the same to bringe into some of oure portes within our realme or dominions, and after a perfect and true Inventarie thereof by the officers of that porte, whereunto the same shalbe brought, and indifferent appraisement first made, the same goodes, wares, and marchandizes to alienate and sell, and to converte to their owne uses, and to dispose at their pleasures, untill they be fullie satisfied of the full somme of seven thowsand six hundred poundes, together withe all the costes and damages by them made or susteyned, or hereafter to be made or susteyned by the reason of the premisses. Provided alwaies that the sayde William Winter and George Winter, before suche tyme as they shall putt in execucion these our letters patents,¹ shall enter into sufficient bandes to oure use, before the Judge of the Admiraltie, that they shall, within twoe monethes after full satisfaction of the said somme of seven thowsand six hundred poundes, together with the said costes and damages, to be taxed and estemed by owre sayde Judge of the Admiraltie, surrender these oure letters patents to be cancelled and made voyde. And we chardge and commaunde all oure said officers of our sayd havens and portes, whiche shall happen and take anye suche Inventarie, or to make anye suche appraisement as ys aforesayde, to certifie the same from tyme to tyme under their handes and seales into oure Courte of the Admiraltie, there to remaine for the more indifferent execucion of these presentes. And likewise we straightlie chardge and commaunde you, and everye of yowe, to our foresaid subjects and servaunts, William Winter and

¹ It has not been found on the Patent Roll.

George Winter, and their saide deputes in and aboute the executinge of thes our letters patents, for the better and more effectuall execucion thereof to be aidinge, succoringe, assistinge, and helpynge, as you and everie of you will answere for doinge the contrarie, anye priviledge, exemption, libertie, or other thinge to the contrarye notwithstandinge, for suche ys oure pleasure. In Wittnes whereof we have caused this oure letters to be made patents. Wittnes ourself at Westmynster, the first day of Februarie, the eleventh yere of oure reigne.

THE RECOGNISANCE OF WILLIAM AND GEORGE
WINTER.

On the same Tuesday, appeared personally before the aforesaid lord, the judge, in the presence of me,¹ the notary public aforesaid, William Winter of Lidney, in the county of Gloucester, esquire, and George Winter, of the city of London, gentleman, and acknowledged that they owed to our lady aforesaid, the Queen, ten thousand pounds of good and lawful English money, to be paid to her, our lady the Queen, her heirs and successors, in her aforesaid Court of Admiralty, at the feast of Easter next to come; And in default thereof they will and grant that execution do issue against them and their goods, moveable and immoveable.²

The condicion of this recognizance is suche that where oure said soveraigne Ladye the quenes

¹ The registrar.

² This is in Latin; the condition that follows is in English.

majestie hathe geven and graunted unto the said William and George Winter letters of marque, in due forme made, and sealid withe her grace's greate seale of England, to arrest, sease, and apprehend, all suche shipps, goods, wares, and merchandizes, debts and things whatsoever apperteyninge, belonginge, or dewe to the Kinge of Portugale, or to any of his subjects, in what place soever the same may be fownde, within libertie, place, exempte or not exempte, within this her realme, or anie her highnes' dominions, jurisdictions, or districts, and the same to bringe to anye porte of this realme or dominions of the same; And after true and perfect Inventarie and indifferent praisement thereof made, the same goods, wares, and merchandizes to alienate sell and converte to their owne uses, untill they shalbe satisfied of the full somme of seven thousand and six hundred poundes, together with all the costes chardges and damages by them susteyned by reason thereof; Yf the said William and George Winter, or eyther of them, doe within twoe monethes next after they shalbe fullie satisfied of the said somme of seven thowsand six hundred poundes, with the said costes and damages, to be esteemed and taxed by the Judge of Thadmiraltie, surrender the said letters patents, otherwise called letters of marque to be cancelled and made voide, Or els to stand in full force and vertue.

1571. Recognisance by John Hawkyns for the good behaviour of his ship, commissioned to search for contraband and to take pirates.¹ — *Admiralty Court, Acts* 15, 17 Nov. 1571.

The condicion of this recognizance is suche that, whereas Raffe Lane, Esquier, one of the Querries of her majesties stable, havinge speciall commission from herhighnes to searche by hym self or his depute for wares prohibited to be transported withowte licence, hathe receyved from the right honorable the Lorde Clinton, Lorde highe Admirall aforesayde, commission to apprehende and take pirattes, and the same withe ther shippes, vessells, and goodes, to bringe into some harboroughe of this realme, there by perfect inventorye to be saffely kept, untill farder ordre from his Lordeshippe or this courte of Thadmiralltie shalbe prescribed therein. For whiche her highnes' service the bovesayde John Hawkyns, as depute of the saide Raffe Lane, ys to furnishe and sett furthe unto the seas one barcke. Yf, therefor, that the master, mariners, and all suche others as shalbe reteyned and serve in the sayde barcke, soe to be sett furthe by the saide John Hawkyns uppon the forsaide chardge and service, doe not transgresse, but observe, accomlishe, performe, and fulfill, the contentes of the sayde Lorde Admirall's com-

The recognisance, for £1000, being in the common form given above is omitted, and the condition only is here printed. Under date 10 Nov. 1571, in the same volume, Martin Frobisher gives security for the good behaviour of the Carrick Lane; William Wynter, junior, for the Frauncis; and Thomas Prydeaux for a ship and two barks.

mission for the seisinge uppon and takinge of pirattes, ther shippes and goodes, as is before expressed, accordinge to the purporte, effect, and true meaninge thereof, and that the saide master, his mate, mariners, and companye goinge uppon the sayde service, ne anye of them, doe not robb, spoile, molest, ne evill entreate, anye of her Majestie's subjectes, nor the subjectes of anye other prince withe whome her highnes ys in league and amitye, That then this recognizaunce to be voyde and of none effect ; Or elles to stande in his full force strenght and vertue.

JOHN HAWKYNS.

1572. Commission from the Queen to the Lord High Admiral to issue commissions to capture pirates ; and commission, in pursuance thereof, to William Holstocke.—*Adm. Court, Acts 15, ad finem.*¹

Edwarde Earle of Lincoln, Baron of Clinton and Say, Knight of the noble order of the garter,

¹ Dated 5 February 1572 ; it is also in *S.P. Dom. Eliz.* cv, 68. Palmer's instructions are below, p. 210. *S.P. Dom. Eliz.* cxxxii, 19, is a copy of an unsigned letter addressed to the Lord Admiral, in which the opinion is expressed that under his patent he had power to issue commissions to capture pirates without further authority from the Queen, and several precedents are mentioned ; the writer probably is Lewes, the judge, or Harewood, the registrar. From the beginning of the reign the subject of piracy is very prominent. Proclamations against piracy and harbouring pirates, and commissions to try ' spoil ' cases, mostly without appeal, recur constantly ; see for proclamations, *S.P. Dom. Eliz.* xix, 79 (1569) ; cxxxi, 19, 45 ; xxxiv, 42 (1564) ; *Add.* xiv, (1569) ; xlix, 79 (1569) ; lviii, 3 (1569) ; *Add.* xviii, 70 (1570) ; lxix, 28 (1570) ; lxxi, 50 (1570) ; cv, 83 (1575) ; cxxiii, 44 (1578) ; cclxxi, 21 (1599) ; and for commissions to hear spoil cases,

Lorde Highe Admirall of Englande Irelande and Walles, and of the dominions and isles of the same, Normandy, Gasconie, and Guine etc., To all and singuler Vice Admiralls, Justices of peace, Maiors, Sheriffs, baylives, constables, customers, comptrollers, captaines and masters of shippes, searchers of portes, kepers of prisons and gaolers, and to all others the Queen's Majestie's officers, ministers, and subjectes by sea and lande to whome in this case yt shall or maye apperteyne, and to everye of them, Greetinge. Where the queene's most excellent majestie, for the repressinge of those pirates and sea rovers whiche haunteth her Majestie's narrowe seas and streames, disquietinge the publicke traficque, course, and trade of merchandizes, not lettinge to rife and spoyle suche as passe the same, hathe aucthorized me,

xxxv, 17 (1564); lviii, 20 (1569); clvii, 73 (1582?); cclxx, 3 (1599); and Rymer xvi, 362 and 412. In or about 1577 special commissioners were appointed in the maritime counties to arrest and fine pirates and abettors of pirates, and to arrest their spoil; *S.P. Dom. Eliz.* cxxxv relates entirely to their proceedings; and there are many other references to them. The term 'piracy' in these records has a political as well as a legal and criminal meaning; the loose practice of past ages and the uncertain state of the law as to contraband, neutrality, and prize, added to Elizabeth's vacillating policy with regard to war and peace, caused all irregular and doubtful fighting at sea to be called piracy or spoil. The commissions which she issued to capture pirates were systematically abused, and she was herself a principal offender. Sir Richard Bingham had such a commission, and he was instructed to use it for capturing ships of the States to discharge a debt due to one Palevicino, for which she was liable; see *Ibid.* clxiii, 30, and *infra*, p. 231. Drake had one in 1584 (*Ibid.* clxii, 38), and it is not difficult to imagine how he used it. The frequency of these proclamations and commissions was perhaps partly due to the fact that it was suggested that the Queen was liable to recompense the sufferers; see *Ibid.* vi, 19, 20.

her Highenes' Admirall, for the better prosecuting and feablinge of them, to furnishe and sett furthe suche shippes and vessells unto the seas, withe suche number of servitors to be reteyned therein, as maye best serve to thaccomplishment of the chardge commytted, as by her Grace's letters patentes under her Highnes' greate seale therefore to me graunted the better maye appeare, the tenor whereof verbatim ensuethe:

Elizabeth, by the grace of God, Queen of England, Fraunce, and Irelande, defender of the faith &c., To our right trustie and right wel-beloved cosin and counsouler, the Earle of Lincoln and Highe Admirall of Englande, Greetinge. Whereas uppon an universall complainte made, as well by our owne merchaunts and other merchaunt straingers, being the subjects of our frinds and allies that commonly use the trade of the narrowe seas, against the excessive number of pirates and sea rovers at this present haunting and kepinge the straighes of the said narrowe seas, in suche sorte as none maye well passe to nor fro withe out spoilinge and riflinge, you have offered at your owne costes and chardges to cause the said pirates and rovers hauntinge the said narrowe seas to be prosecuted, and to be eyther apprehended or forced to avoyde from their said hautes; Like as we earnestlie requier you, withe all diligence possible to employe your best endeavor to bring yt to good end and successe. And for the better and more spedye doinge thereof we doe by theise our letters geve unto you full power and auctoritie, not onlye to take this enterprize in hande, but also by the ayde of our officers of our Admiraltie to presse, take uppe, and minister as many shippes and other vessells

furnished with armor, munition, and victualls, mariners, soldiers, gonners, and other necessary persons for this purpose as maye be sufficient for thintended enterprize, in all places, as well privileged and exempt, as not exempt, where you shall thinke good ; and to appointe some suche one of our officers of our Admiraltye as you shall thincke most mete to be your deputie, or Vice Admirall, in the execution of this chardge by us committed unto you ; And generallye we doe fully authorize you to commande do and execute by commission in our name all other thinges that maye in any wise tende to the furtheraunce and bringinge of this service to good effecte ; Signifienge further unto you that we are pleased you shall also have one of our owne shippes, that ys to say the good ship called the Swallowe, withe all her furniture, tacklinge, and ordenaunce, well ecquipped and made readye to enter into this service at our cost and chardge, to be thadmirall and cheife governor of the rest of the shippes of this voiage. Of whiche Swallowe that officer of our Admiraltie whiche you shall name and appoynte to be your deputie herein, as before ys saide, shall have the principall chardge ; unto whome, for his direction and order in some parte of his proceedinges at this tyme uppon the seas, you maye in our name geve commission, that yf he shall fortune uppon the seas or rivers of this jurisdiction of the Admiraltye to mete with anye piraticall shippe of warre, that ys or dothe appeare or seme to be of the number of those who have robbyd or spoyled any of our merchaunts, or the merchaunts or subjects of any of our frinds and allies, yf the said piraticall shipp or shippes shall not willinglie yealde themselves to you, or hym that shalbe appointed

your deputie, to be tryed and proved by justice and lawe, but will defende themselves by force and violence, your said deputie shall by all meanes possible, and withe all force compell them to yealde and submitt themselves to reason and justice, althoughe yt so fortune that by fightinge withe them any one or moe of them maye happen to be maymed, hurte, or slaine for their resistaunce. And when they have yealded themselves either willinglie, or by force, you or your said deputie shall cause them to be broughte into some of our portes, and the men to be committed to safe custodie in the said portes, havens, creekes, or other townes nere adjoyninge untill suche tyme as they have answered to justice, and suffer the paine of our lawes for ther piracye, or ells be acquitted therof, and lawfullie delivered. For whiche purpose we geve you full power and auctoritie in our name to chardge and straightlye commaunde all mayors, sherifes, baylives, constables, gaolers, and other our officers, ministers, and subjectes whatsoever to whome in this case yt maye apperteine, that they and every of them be obedient, attendant, aydinge, and assistinge unto you, or your said deputie, in all things that you shall nede or requier for our service herein, to the best of their powers; And that they kepe in safe custodie the said pirates or prisoners taken for suspicion of piracie, until they may be tryed by justice, or otherwise lawfullye acquitted and delivered, as before is towched uppon¹ paine of our highe displeasure and indignation, and as they will answere for the contrarie at their uttermoast perills. And theise our letters, whiche we caused to be made patent, shalbe your sufficient warrant and dischardge in this behalf. In witnes

¹ *Sic.*

wherof we have caused theise our letters to be made patent. Witnes our self the vth daye of Februarie in the xvth yeare of our reigne.

[*Commission to Holstocke, in pursuance of above.*]

Knowe ye me¹ the saide Earle, Baron of Clinton and Say, Lorde Highe Admirall of Englande, to have constituted and made, and by these presentes doe constitute, appointe, and make, William Holstocke Esquier, Comptroller of Her Highnes' Navye, my deputie to passe unto the seas in Her Majesties goode shippe called the Swallowe, in companye of suche others as are appointed to serve under hym in this behalfe ; And to doe, speede, fullfill, performe, and accomplishe, all and singuler services, chardge, thinge, and thinges, as in Her Majestie's said letters patentes are comprised and mentioned, and in suche forme, manner, and order, as in the same is contained, as lardgelye and amplye as I my self might doe and execute, yf I were there personallye present ; And theirfore these are, in her Highnes behalf, straightlye to chardge and commaunde you, and everye of you, as well by sea as by lande, to be obedient, attendant, furtheringe, ayinge, assistinge, and helpinge, unto the said William Holstocke, and all other servinge under hym in thexecucion of the premisses and service committed unto hym ; And that you doe carefullye and safelye reteyne and kepe suche pirates and other persones which shalbe by my said deputie brought, committed, or sent to any your chardges uppon suspicion of piracye, untill suche tyme as they maye have ther just triall accordinge

¹ *Sic*, in original. These commissions are not on the Patent Roll.

to justice and law, or otherwise be cleared and acquitted as before ys expressed, under the paine of her Highnes' displeasure and indignacion, and as you, and every of you, will answere for doinge the contrarie at your uttermost perrill. In witnes whereof I, the said Earle, Lorde Admirall afore-saide, have hereunto caused the great seale of myne office to be putt. Yeoven at London etc. the vijth of Februarie in the yeare of our Lorde god 1572 and in the xvth yeare of her Highnes moast prosperous reigne.

1573. An order taken touching the venterers and good prises in Flemysshe bottoms within the Cinque Portes . . . by the Lord Warden and Admyrall of the same Portes . . . and the Court of Admiraltie, the twelthe day of January. — *Add. MSS.* 34150, f. 59.¹

First, before any bulke broken, and within xxiiij hours after . . . vessel brought and placed

¹ The Lord Admiral was entitled under his patent to pirate goods, and made a profit out of these commissions, as appears from the following letter (*Adm. Ct. Libels* 45, No. 8), addressed to the clerk or registrar of his court:

'After hartie commendacions. Whereas Richarde Gorham of Gillingham hathe done offence upon the seas in buyeing of pirats goodes, as I am crediblie informed by Peter Rowle and others, and nowe bounde into the courte Admiraltie to answer the same: These are to will you, upon dewe prouf made, that you retourne my due and proffit thereof to this bearer, my servant, Peter Rowle. And this my lettre shall be your discharge the xxvijth of September 1573.

Your frende,
E. LINCOLN.'

in harboroughe, within the Portes, one . . . the venterers' vessell, and the shipmaster of the Flemysse vessell, or els some other of the Flemysse vessells, with their charter parties . . . and of the goods and other writings, to repair to the castell of Dover . . . examined upon interrogatories, and other circumstances touching the p . . . goodes, and the coloring of the same.

2. And yf, upon such examination, cause of suspition or coloring shall . . . parte are like to be Frenche, by opynion of the lieutenant of the castele, the goodes to remaynen, and according to the distaunce of the place, day to be gyven for . . . ij or iij credeble depositions under the towne seale of the lading place, upon suche . . . by the luetenant shalbe prefixed, wherin if there be defaulte, then the aventurers . . . caution put in to the luetenant and court of Admyraltie for the value of the same . . . interest, costs, and dutie &c. . . . may sell and use the same as French goodes.

3. And yf the deposition brought shalbe taken . . . yet if the . . . thinke to disprove the same, and will enter action, the Flemyns shall . . . and suerties of this countrie tawnswere that sute, before the goodes shall depart.

4. And if upon the first examination there shall appere no cause of suspition, then to be des . . . , the venterers to enter action, and upon such action entred the Flemyns shall putt in suerties tanswere before the goodes departe.

5. And that by sale or otherwise no bulk be broken till after examination by the . . . Admyraltie, and lycense in that behalf graunted.

6. Every offendor contrary to the premisses to forfeit dowble the value . . . thing, and a years imprisonment, and x^{li} fyne to the Quene.

7. Every officer within the Portes previe and consenting to the . . . forfeite x^{li}, and xx dayes prisonment in Dover castell.

W. COBHAM.

1575. Order by the judge of the Admiralty to the Vice-Admiral of Cornwall and others to release a ship captured under a foreign commission ; the captor having been tried for piracy and acquitted.—
Adm. Court, Exemplifications 16, No. 6.

Whereas on Jhon Smythe, sometyne of Colchester, being before your worship, confessed that a certeine barke with all her furniture cauled the Jonas, late of Sandwythe, wherein the said John Smythe was capetaine, did belonge and appertaine unto Henry Carew and Nicolas Palmer, supplyantes ; which said barke, being arested by certeine gentilmen of Cornewall, viz. Mr. Francis Goodolphin, Mr. William Harris, and Thomas Cheverton, esquires, is wrongefully detained from us, her said owners, by the parties aforesaid, together with a barke of the borden of lv tones or thereabouts, with all her takle and hoole lading of salte, being taken at the seas by the said John Smythe, capetaine, deputed by William Cotton and the said Henry Carew in the servyce of the Kinge of Spayne against his rebelles and enemyes with other ther confederates, being authorised thereto by letters patentes from Don Lewis de Requesens, governor of the low countries under the said Kinge of Spayne. The said John Smythe, being apprehendid and stayed at Mounts baye in Cornewall aforesaid by the said Francis Goodol-

phyn, William Harris, and Thomas Cheverton was arreigned and put to his triall in law, and lawfully acquyted by the verdict of xij men, according to the lawes and customes of this realme; so that they wrongefullye do detayne and witholde bothe the said pynace and pryse, to oure greate losse and damage, contrarie to all equitie and lawe. For which considerations aforesaid we, the said suppyants, do beseche your worship to graunte us order in the Queen's Majestie her name, for the restitution of our said goods. Yf it please your woorship to graunt us commission for restitution as aforesaid, oure request is to have appoynted for our commissioners Sir John Arundell of Lauherne, Knyghte, Richard Greenvielde of Stowe esquier and vice-admyrall.

(Order by Dr. Lewes for a commission of restitution; and, *ibid.* No. 7, the commission.)

1575. Recognisance by the masters of four ships, in £100, not to carry victuals or war material to Antwerp.—*Adm. Court, Exemplifications* 15, No. 281.¹

[*The condition of the recognisance is as follows :*]

. . . That if the bovesayd masters of the foresaid iiij severall shippes, during the trowbles of the lowe countreys, shall not furnishe their shippes with any greater quantitie of municion for warr, neither shall lade in their shippes any greater quantitie of victualls then shalbe neces-

¹ *Ibid.* Nos. 194, 225, 253, 269, 281, are similar. Cf. *Adm. Ct. Exemph.* 34, No. 3, for a similar bond of 1558 by Dantzic ships.

sarye for their passage from London to Andwerpe, and likewise from Andwerpe to London, by the river of Scheld, nether shall paie any thinge to the Prince of Orange, his officers or ministers for the said passage, nor shall traficque, conferre, or practiz with them any thinge tendinge to the hinderaunce of his Majestie's service, or the hurt of his countries or subjects; and if they shall also suffer their shippes to be dewlye visited, as well on this side as on thother side of the sea by suche as shall have commission thereunto from both their Majesties, of the one and the other side, in their owne countries, before the said shippes shall departe from the havens, to thend yt may be knowen what merchaundize they shall carrye, and whether there shalbe any thinge prohibited, as victualls, armor, or municion of warr, more then shalbe convenient for theirre voiage, withoute fraude. If also, when theirre said shippes shalbe arrived at Safftingham, they shall give advertisement to the governor of the towne of Andwerpe for the tyme beinge of their arrayvall before the said shippes shall come to Andwerpe by the said ryver, to the ende yt may be knowen what manner of shippes they shalbe; and for that disorders may be avoyded, which other wise mighte happen for lacke of such advertisement, then this obligation to be voyde. Provided alwayes that yf by tempeste, contrarye winds, or othei accident, the said Englishe shippes shalbe constrayned and forced to take any porte that shalbe in the possession of his Majestie's enemies, yt shall not be imputed to them. All whiche to be done withowte fraude. [*Dated* 11th April 1575.]

1575. Proclamation recalling English seamen from serving foreign princes.¹—*S.P. Dom. Elizabeth*, Vol. cv, No. 83.

For as much as the Queene's Majestie is informed that dyvers of her subjects, under pretence of service on the seas, have, some armed shippes and vessells, and some other entred into service as mariners and soldiers in theis troublesome tymes of civill warres, some on the one side and some on thother, and doe by couller of such service trouble, vexe, and spoile, not only the subjects of the princes, her Majestie's neighbours, both of France and of the Lowe Countries, but her Heighnes' owne subjects also, wherebie the trafficke of marchandise and trade of fishing is at this present greatlie hindred, her Heighnes' custom much decreased, and all marchandise greatly inhanced in prices, besides the manifold troubles dangers and losses that doe come to all persones who should traffique by sea ; And so her Heighnes' subjects on both the sides, leaving their mutuall trade of fishing and seafaring in waie of marchandise, takinge partes, become her enemies, and exercise acts of hostilitie, on thone side or thother, to all manner of persons haunting over the seas, and amongst themselves also ; wher contrarie wies her Majestie's will and pleasure is that none of her subjects should entermeddle in anie quarrells of anie forraigne prince or subjecte, either on thone side or thother, (speciallie by sea), without her Majestie's licence thereto first obtained, as hath often bin declared, bothe by proclamation and letters. Because

¹ A draft ; endorsed, Nov. 1575 ; cf. *Acts of the Privy Council*, 19 Oct. 1575.

now of late, under pretence of those forraigne services, manie piracies be dailie committed and done, yea in her Majestie's owne portes, and a great number of maryners and fishermen be torned from good subjects to be pirates, and thereby her Majestie is moved to have an especiall care in this behalf for that she is given to understand that the most parte of those her subjects that are entred into this actyon of forreyn service are drawn thereto by perswasion of such other her evill affected subjects as for their offences heretofore committed most undutifully against her Majestie and this crowne remaine fugitives in forraine partes, who (no doubt of yt) will doe their indevor to alien the said maryners' devotion from her Majestie, their naturall prince and soveraigne, and make them become, of profitable, unprofitable members of this State, a thing, considering the especiall use there is of their service in due course of pollicie, especiallie is to be looked unto; Wherefore her Heighnes, forseeing the evident mischefe that maie insue therof, straightlie chardgethe and commaundethe all manner of persones, whosoever they be, that have not licence expreslie from her Majestie, to be shewed under writing, to serve anie forraine prince or other in warrelike manner, either as souldiers or mariners, speciallie by sea, shall mediatelie after this proclamation published, and so sone as notice of the same do come to them, surcease from suche service and retorne home to their accustomed occupations and trade of lief, upon paine that whosoever shall not so doe shall be taken and reputed for a rebell and disobedient to her Majestie; and further straightlie chargeth and commaundeth all Admiralls, Vice Admiralls, and all captens and masters of her Heighnes' shippes,

and all other her Heighnes' officers which have to do over the seas, and likewise all justices of peace, maiors, bailiffs, customers, comptrollers, searchers, constables, and headboroughs, and all other her Heighnes' officers, ministers, and loving subjects, whosoever they be, to apprehend, take, and commit to prison all suche as shall doe contrarie to this proclamation, and to staie all other shippes, tacle, vittels, and munition within the same shippes, until suche tyme as her Majestie's further pleasure be knowne. And because her Heighnes hathe further bin informed that divers of her officers by reason of some gaine, (as it is suspected), have wincked often at theis disorders, and have bin cause why suche offenders do so increase, her Majestie geveth by theis presents expresse warning to all her Heighnes' officers that whosoever shall be hereafter founde to be negligent in the apprehending of suche malefactors in the execution of this proclamation, or shall wincke at their doinges, that upon information, yf the said officers shall be found guiltie of that negligence or corruption, they shall not onlie lose their offices, but shall incurr her Majestie's further displeasure, and be suerlie punished, as shall appertaine. And if the head officers of anie porte or towne corporate shall be founde herein hereafter faultie, her Majestie shall have cause to sease the liberties of the same towne for the disobedience so dangerous to the realme, and of so evill example.

1576. Articles of consortship for the wine fleet.¹—*Adm. Court, Letters of Marque Bonds, 2.*

Articles for the navye appoynted for the partes of Spayne.

1. Where there is bounde furthe at this present from the river of Thames and porte of London the severall shippes specified in the schedule adnexid, to passe unto the severall portes and places deducid in the said schedule ; It ys agreed ordered and appoynted by the consent of the masters of the saide shipps, for the better tuicion defence saffeguard and preservacion of them from invasion, spoyle, or hurte, of such as hauntithe and kepithe the seas in disorderlye and warlike sorte, that the same shall joyne and goe togeather in one consorte, conserve, flote, and societie, withowte severinge themselves untill they come unto the quoasts or places where they are to goe to ther appoynted portes.

2. Item it ys ordered and appoyntid that the good shippe called the Edwarde Bonadventure, freighted for Barbarye, shalbe Thadmirall of the saide flete or navye, and the good shippe called the Marye Edwarde the Vice admirall, to conducte, leade, and guide, the same navy of shipps from this saide porte of London to Cape Finisterre, and soe to Cape St. Vincent.

3. Item yt ys alsoe orderid that suche and soe menye of the said flote as are to goe with Galizia, whereof the said Mary Edwarde ys one,

¹ Cf. *K.R. Mem. Roll*, 15 Edw. IV, Mich. r. 26 ; an account of charges for conducting the wool fleet to Calais.

shall after ther departure from the said Edwarde Bonaventure, take, receyve, and have, the same Mary Edwarde for ther Admirall and leader, aswell to conducte and bring them to ther partes in Galizia, as alsoe from thens to the partes of Andalozia, where they are to be laden for this porte of London, and the same Mary Edwarde they shall followe and attende uppon withowte departinge from her, exepte by violence and streanablenesse of weather.

4. Item that the rest of the said Navye or flote of shipps whiche are directlye to goe with Andolozia shall, after ther cuminge with Cape Finisterre, wher ther Admirall, the said Edward Bonaventure, is to departe from them to followe her course to Barbarie, shall then, for ther better streingthe and saffegarde, take unto them the good shippe named the Barcke Burr for ther Admirall, Under whose rewle, order, and dealinge, they shall togeather passe and sayle unto the partes of Andalozia, whome the rest of that flote shall obey and followe in everye respecte.

5. Because the said Navye and flote of shipps is wholye to receyve and take in ther ladinge in Andalozia for this porte of London, and that those shipps whiche directlye saylethe thethur maye perchaunce be readye to departe for England before the residewe of the flote shall come from Bayon, or beinge thethur cumen before they shalbe in redines to come alongest with them, It is orderid that suche of the said flote as shalbe first laden eyther in the rode of Cadize or elles in eanye porte or harboroughe within ten leagues thereabouts shall, after they be soe laden, come unto the Bay of Cadize, and there (yf there be in number eight sayles) they shall remayne, abide, and tarrye, the space of vij dayes, for the rest of

the saide flote to cume from other portes thereabouts. And yf in that tyme noe other nor more shipps shall resorte unto them there, then yt shalbe lawfull for the saide viij shipps to joyne themselves togeather in one consorte, fellowshipe, and flote, and soe to departe and cume from thence, kepinge them selves one with an other withowte brekinge cumpanye (excepte by force of weather); And soe in best order, for ther moast suertie and safegarde tapplye them selves with moast convenient speede to this porte of London, as winde and weather shall serve moast apte and convenient thereunto; Appoyntinge and chowsinge to them suche one shippe of that number for ther Admirall as they shall thincke best, to be ther leader and governour in that behalfe.

6. Item yt is alsoe orderid that the rest of the flote ladinge in those partes, which then shall not be in redines to departe with the saide viij shipps, shall cume unto the saide Bay of Cadize and there shall likewyse make tariance of vij dayes, and joyne them selves to cume awaye togeathers in one societie and consorte; And yf they cannot cume all thethur togeathers, then to departe not under viij shipps in cumpanye, makinge choyse of one of the same to be ther Admirall; Provided that the foresaid Barcke Burr doe continewe still Admirall of that companye where she goethe, yf the said Marye Edward be not in presence.

7. Item that the masters, mariners, gonners, and all others, saylinge and servinge in eanye the residewe of the saide shipps, shall shewe ther obedience and dewtye boathe owtewardes and homewardes to ther said Admiralles and Vice Admiralls at all tymes, and shall followe and

observe ther orders, course, and courses, and not to followe ther owne wills and pleasures as everye of them will avoyde her Highnes indignacion and answere for the contrarye doinge.

8. Item furder it is orderid that the masters of everye of the bovesaide shippes shall have, reteigne, and kepe, for the better manninge and strengtheninge this voyadge, the number of mariners and boyes severallye notid and sett furthe uppon the hed of everye of the saide shippes in the foresaide schedule, and shall not dismissee nor dischargd eanye one of them by the way untill this viadge be fully complete and ended; And that everye of the said masters doe furnishe his said shipp with ordenance, powther, shott, and other municions defensable, accordinge to the said number of men as shalbe mete and needfull for this present.

9. Furder it ys orderid for the rest of suche Englishe shippes as shall lade at Gibraltar and Velys Malega, or betwixt those two places, shall after ther ladinge taken in, cume togeather to the rode of Gibraltar, and there shall abide and tarrye the time of vij dayes, untill the rest of the shippes ladinge in those places shall cume unto them; And there hence under one Admirall by them to be chosen, beinge in number viij shippes at the least, shall departe and make sayle in one flote and societie towards this quoast of Englande. And shall not sever ne breake cumpanye before they arrive with ther unladinge porte, excepte winde and weather shall compell the same.

10. Alsoe it ys orderid that the shippes ap-
poyntid at this present to sayle from the portes
of Ipswich and Harwiche to the quoaste of Spaine
shall enter into this societie with the rest of

the shipps of this porte, and shall joyne themselves with them to perform thorders in this behalfe sett downe and made, and to kepe cumpanye togeathers, as the rest before specified are bounde to doe, as they will answere for the contrarye doinge. And to accomplish the same every master shalbe sworne before the Admirall and Viceadmirall appoynted. And yf they or eanye of them, beinge required thereunto, shall refuse the performance thereof, then they soe refusing be sett downe and notid as disobedient, and reporte to be made of suche ther refusall at the returne and cuming home of the said Admirall or Viceadmirall, to thende suche stubberne and disobedient persons may have condinge punishment for the . . . example of others.

II. Item that, uppon thende and finishinge of this voyage, reporte and certificathe be given upp in writinge by the said Admiralls and Viceadmiralls of the behaviour, usage, and obedience, of the saide flote, or whoe of them hathe transgressid or offendid, or would not be rewled accordinge to the purporte and effecte of theise articles.

W. WYNTER, BENJAMIN GONSON.

There follows a list of 21 ships, with particulars of their tonnage, masters and crews. The charge for convoying seems to have been at the rate of 1*d.* per ton. The articles above, though dated in the margin 1576, were used as a precedent in 1590; see *infra*, p. 261.

1576. Instructions geven by the Lords of her Majesties privie Counsell to Henry Palmer, Esquire, appointed to be Capten of her Majesties shippes set forth for the clearing of the seas, the xixth of Maie 1576.—*Lansdowne MSS.* 155, f. 166.¹

Her Majestie, understanding by the greevius and sondrie complaints made by her subjects of the great spoiles by them dailie sustained at the handes of such as now of late hath so infested the narrowe seas, as not onelie not her owne said subjects, but also noe forraine merchants, can in any wise occupie their honest and lawfull trades of merchandise. Pitying therfore greatlie many of her owne subjects, who by theis spoiles have bene utterlie undone, and weighing besides howe dishonorable it is to her Majestie to suffer theis seas, [in] which she and her predecessors have bene accompted to have alwaies held supreme sovraintie, to be by such leude persons haunted, besides the great abatement of her customes, as well outward as inward, [has] thought it most necessarie for remedie therof to set out certaine of her shippes, wherof she commytteth unto you the direction, for the cleereing of the seas and thapprehension of the said malefactors.

Wherefore her Majestie's pleasure and commandment is that, yf you shall finde any notorious pyrates at the seas, you doe apprehend them, and bringe them unto some such of her Majestie's portes, wherat you thinke they may be in safest custodie, and answerable to justice, wherof you shall from tyme to tyme, ymediatlie after the

¹ Also *S.P. Dom. Eliz.* cviii, 23.

bringing of them in, certifie us to thend we may take order accordinglie. Notwithstanding it is not meant that you deale with any of those that shall appeare unto you to appertaine unto the prince of Aurange, and have his commission to shewe,¹ but shall use them from tyme to tyme, as you shall meete them on the seas with all curtesie, untill you shall receave further order from us to the contrarie.

Also, yf you meete with any of her Majestie's owne subjects at the seas not using the trade of merchandise, but armed for the warres, her pleasure is that you apprehend them in like sorte, and commytt them to such safe custodie as they may be answerable to the lawe, for serving forraine princes without her Majestie's especiall license, and for any spoiles done by them wherof they may be justlie chardged.

Moreover her Majestie's pleasure and commandment is, that if you happen to meete with any the naturall subjects of such princes as are in league and good amitie with her, being by commission sufficientlie warranted to keepe the seas onlie in the service of their masters, and use

¹ Palmer and Holstocke's mission really was to stop the Hollanders from capturing English ships trading to Spain and the Netherlands, as they were doing (*Cotton MSS. Galba D. vii, f. 40*). Foreign commissions were, no doubt, used as a cloak for irregular privateering and piracy by English seamen. One of the Fenners had one, apparently from the Prince of Orange, and made use of it to capture Spanish ships, flying the St. Andrew's Cross at his mast head; these ships were ordered to be restored upon the ground that his commission was illegal (*S.P. Spain*, 26 Oct., 3 Nov. 1572). Other English seamen were serving Philip against the Hollanders (*Adm. Ct. Examinations*, 21 July 1574). Others used them 'to cover their lewd dealinges' (*S.P. Dom. Eliz. lxxxi, 50*).

their said commissions accordingly, that you forbear to deale with them.

It is also thought meete that the course that you shall keepe for the cleereing of Her Majestie's streames shall be cheiflie betwixt Yarmouth and the Isle of Wight. And yet, yf you shall be informed of any spoiles commytted upon any of her Majestie's subjects somewhat beyond those lymitts, yt is left to your discretion to pursue such as shall offend in that behalf, especiallie towards the west, with this consideration, that it is reposed in your truste ever to have regarde to the safe keeping and preservation of the shippes and companie committed to your charge.

Lastlie, for all other matters concerning theis your present service, and not contained in this our instructions, we referre you to be guided and directed by such order and commandement as our verie good Lord, the Lord Admirall shall give you.

1576. Articles of Instructions for William Holstocke esquire, Comptroller of her Majestie's shippes appointed by the Queen's Majestie to repaire to the seas with such shippes as shall be appointed by the Lord Admirall, dated at Windsor, the first of November 1576.—*Lansdowne MSS.* 155, f. 364.¹

First, the Queene's Majestie, findeing the great inconveniences, disturbances, and losses, that rise,

¹ Cf. Instructions in the same volume, p. 169, to William Holstocke to capture Flushing.

as well by her owne estate in her customes growing to her Majestie by trade of merchandise, both outward and inward, and otherwise as to her good subjects [and the subjects]¹ of her friendes and allies by the great number of pyratts that doe haunte and keep the seas, in such sorte as not onlie the intercourse of merchandise is interrupted and almost desolated, but also even the liberties of her Majestie's owne streames within the narrow seas are by those kinde of people in a manner cleerelie taken awaye and made of noe force, and the marriners and fishermen of the realme intised from the service of their owne naturall countrie, hath for the redresse therof made choice of you to repaire to the seas with two of her shippes royall, to endeavour yourself by all good meanes that you can to revoke, staie, and apprehend those malefactors according to theis and other instructions that shall be geven to you by me, the Lord Admirall :—

You shall informe yourself by all wayes that you can devise to understand if any of her Majestie's subjects doe serve any forraine prince or government in any English bottome, under cullour of any commission or licence whatsoever, without her Majestie's special licence, of which sorte, as you may assure yourself, her Majestie hath graunted none before this tyme, howsoever yt may be that some shall pretende some counterfeyt warrant. And if you shall finde any such at the seas, you shall first signifie unto them the Queene's Majestie's pleasure and commandement in that behalfe expressed in her Highnes' proclamation latelie sett forth for that purpose, wherof you shall have some copies in printe to deliver to them. You shall by vertue therof

¹ These words appear to have fallen out.

and theis our Instructions require from them in her Majestie's behalf to desist from that kind of service, and speedelie to repaire to the coast with you, with their shippes and company. And if they shall refuse so to doe, you shall against such use your force, and bring them to some port of this realme, and hold both them, their shippes, and ladinges, in safe keeping, untill upon information geven to us of the particularities of their doings, you shall receave further direction.

If you shall finde any shippes serving at the seas belonging to any forraine prince or governor, and yet be manned for the more parte with mariners and soldiers that be her Majestie's subjects, you shall, as aforesaid, signifie unto all such her Majestie's pleasure and commandement, and use all other good meanes that you can to withdrawe them from that service, and to cause them to repaire home to their common abyding there, to behave themselves according to the lawes, without further medling in those forraine services, as they will assure themselves to answeere to yt at their perills.

And if you shall finde at the seas any of her Majestie's subjects not using the trade of merchandise, and not notoriouslie knowne to have followed that trade of lief, and be manned and armed for the warres, you shall doe your best to apprehende both them and their shippes, and to bring or send them to some porte or haven on the coast of this realme, where they may be put in safetie to answeere to justice.

Item yf you shall finde at the seas any notorious piratts, (speciallie such as are well knownen to have robbed and spoyled any of the Queen's Majestie's good subjects), you shall take and apprehend all such, of what nacon soever they be,

and bring or sende them likewise to some coast or haven of this realme, that they may be answerable to their offences according to justice and the lawes of this realme.

And whatsoever you shall further wante for the execution of this service, or to put yourself in order for that purpose, you shall followe such directions therein as shall be appointed by me, the Lord Admirall, to whom we require you to make your repaire, or otherwise to understande his pleasure and advice, from tyme to tyme, as the cause shall require.

We thinke yt also meete, and so we require you, that if you shall meete at the sea any of the subjects of the French King, the King of Spaine, or of any other forraine prince or governor that shall serve their naturall lordes by their commission and appointment, you shall make yt knowne to all such that your intention of goeing to the sea is not to intermedle in their causes, nor to doe any thing that shall impedit or disturbe their purposes; but onlie that your goeing is to cleere the narrow seas from pyratts, that the intercourse and trade of merchandise may be maintained betwene the subjects of her Majestie's dominions, and all others her confederates, friendes, and allies, as in time of good peace hath bene accustomed.

1577. Warrant to the Warden of the Cinque Ports to license privateers.—*Add. MSS.* 34150, f. 61.¹

ELIZABETH R.

BY THE QUEENE.

Right trustie and welbeloved, We greet you well. Whereas there is an unyversall complainte made, aswell by our owne merchaunts and fishermen, as also by other merchants straungers, being the subjects of our frinds and allyes, of the great number of pyratts and sea rovers haunting and keeping the narrow seas and streames thereof, in such sorte as none maie well passe to nor fro without spoyling or ryfling, to the great hinderaunce of trafficque and trade of fishing and no smaule losse to us in our customes ; We having care that our streames should be quyete and voyde of such malefactors, and understanding that sute hath ben made to our previe Counsell on the behalf of divers townes corporat of our realme, being annoyed by such pyratts and sea rovers haunting their coasts, to have licence to sett fourth shippes for the chastening and repressing of the said malefactors, offering to do the same at their owne adventure, proper costs and chardges, do not onlie tak in very good parte their offers, but also are content and pleased, and by these presents do geve full power and authoritie unto you, to give and graunte commissions under the seal of your office of the Cinque Portes to as many, as well cities and townes corporat of this our realm, as you shall thinke good, as also to others whom you shall thinke such as will not abuse the same, to arme and sett fourth so many shippes furnished with maryners, souldiers, gonners, and other persons, as shalbe by you thought requisit,

¹ Also in *Adm. Ct. Libels* 77, No. 61.

at their owne adventure, proper costs, and chardges, to purge and clere the sea coasts of such evill persons ; with this proviso, that every corporat towne shall appointe such persons to serve therein as they will be aunswearable for, yf their behaviors shalbe reprovéd or misliked, and that such as shalbe so sett fourthe to the seas shall follow such Instructions as shalbe sent unto you herewith, signed by one of our secretaries, to be annexed to their commissions. And theis our letters shalbe your sufficient warraunte to graunte the said commissions under the seal of your said office, to execute the same accordingle.

And to encourage such as shalbe willing and desyrous to arme and furnishe shippes fourth to the seas for the purpose aforesaid, we are pleased and contented that they shall have such allowaunce towards their [chardges] out of the proper shippes and goodes of the pyrats or sea rovers as [they] shall cause to be apprehended after they have ben thereof attaynted in the [forme] of lawe as shalbe thought convenyent by the Treasurer, Chauncellor, [and Barons] of our Exchequier or any three of them, wherof our [Treasurer or] Chauncellor to be one, to whom uppon the sight hereof, with[out other] warrant, we geve full authoritie to allow the [same and to gyve order] that they may be satisfyed thereof according[lie ; Willinge and] straightlie commaunding all and singular our [officers ministers and] subjects, as well within liberties as without to be [unto you and all suche] as you and they shall appointe and authorise [in forme aforesaid] obeying, aideing, and assisting, as they will aunsw[ere to the contrary]. . .

Geven under our signet at our mannor of Gre[enwiche] the xxijth of Maye, in the xix yeare of our reigne.

1577. Instructions for the better direction of such as shall have licence to passe to the seas for the takinge of pyrats and sea rovers, to be annexed to their com-myssions.¹—*Add. MSS.* 34150, f. 64.

Imprimis that the pyrats taken maye be brought to the next port, and there presented to the Vice Admyrall, yf he be found presente, or the next justice of the peace, who shall send them to the nexte gaole, their to remayne untill they be tryed by order of justice.

That the shippes and goods and merchandizes in the possession of the pyrats be whollye and without diminution brought to the next port or haven, and their valued by the oth of fower honest, skilfull, and expert persons inhabiting thereabout, with the advice and oversight of the customer there, and then delyvered to the custodie of the said customer by inventory indented, their to remayne unto such tyme yt maye appear how much thereof shall appertaine to thes pyrats, and how much to others, and untill order be directed to the Vice Admyrall and such customer in that behalf; thone part of suche inventory

¹ Burghley, in returning them, approved, to Cobham, writes: 'Whosoever shall consider these artycles and thynk that they must continue, must presume that neither the Lord Warden, nor any other, shall have the good luck to make a peace for England with the King of Spayn. Which I write merely to your Lordship because every man that imagineth of the contynuation of your Ports to lyve by sea service as men of warr will also add to his imagination that the Lord Warden by his shares, yf heshell use it as the High Admyrall of England doth, shell tak more plesur or profit by warrs than by peace; but I that know your Lordship inwardly can and will imagyne otherwise.'—*Add. MSS.* 34150, f. 132.

to remayne with the said Vice Admyrall, and thother with the said customer.

That they borde nor assaulte no shippe passing on the trade of merchandize, nor fysherman following his craft, but in all thyng ayde them from the hands of the pyrats and sea rovers, as muche as in them maye lye.

That after the takinge of any pyratious shippe or vessell, the same shalbe certified to the Lord Admyrall, or the judge of the Admyraltie with all convenient speed, to thend they maye make the Lord Treasurer, Chancellor, and Barons of the Exchequer privie thereto.

That no sale or distribution be made of any parte of the goods taken in the possession of any pyrat or rover so taken without order from the Lord Treasurer, Chancellor, and Barrons of the Exchequer, or three of them, whereof the Lord Treasurer or Chancellor to be one.

Finallye, her Majestie's pleasure is that this commyssion shall have continuance and be in force no longer tyme then unto the last daie of October next, unles yt shall please her Majestie in the mean tyme to prolonge the tyme, and to sygnifie the same unto the Lord Admyrall.

FRA. WALSYNGHAM.

1577. Letter of assistance to Sir William Morgan, on a voyage of discovery, to be withdrawn, and a commission to capture pirates substituted.—*Adm. Court, Exemplifications* 17, No. 99.

To all lieutenants, capitanes, Admyralls, maiors, sheryffs, Justices of peace, Bayliffs, and all other her Majestie's officers within this Realm of England and Ireland.

Forasmuch as her Majestie hath lycensed Sir William Morgan, knight, to passe with certaine shippinge in a voyage pretended for the dyscoverye of a certaine land heretofore not knowne nor traded unto, as also (if occasion so serve) to serve against the Turkes and infydells ; These shalbe therefore to require and command you, and everye of you, wheresoever (in what coaste, roade, haven, or harborowe, he or his saide shipping shall happen to aryve, eyther by occasyons of weather or contrarie windes), that he and all his, where they or anie of them shall land, travayle, lodge, and ymbucke,¹ be gentlie entreated, reasonably used, frendly furthered, and in all their lawfull causes helped, ayded, succoured, victuled, and suffered to passe and repasse, as her Majestie's lovinge subjects, as also permitted freely to make sale of any commodytie they have, for want of victualls or other necessaryes ; Provyded allwaies that the saide Sir William Morgan, ne anye of his, doe abuse or mysuse none of her Majestie's lovinge subjects or frendes. Yoven at Grenewich the sixth of Julye 1577, and in the nyneteenth yere of the Reigne of our moste dred sovereigne Ladie Quene Elizabeth.

Instede of this make a permission to take pyrates, according to her Majestie's warrant.²

DA: LEWES.

¹ *Sic* ; qy. embarke.

² The distinction was vague ; see *S.P. Dom. Eliz.* vol. cxxxi, No. 45.

1578. Articles extracted out of the order made by her Majestie for to remedie and meet with the depredations daily committed and don by the subjects of this Realme upon Frenchmen and other nations, subjects of those princes, her neighbors, which are in amitie and good correspondency with her said Majestie. *S.P. Dom. Eliz.* cxxiii, No. 44.

It is first ordeyned that from henceforth every subject of this realme be forbidden to set forth or victual and put to sea any shippe or vessell that is not knowen or avowed for a marchant or master of a shippe going out of this realme in trade of merchandise or for fishing, excepting only such as by speciall commission signed by her Majestie or by six of the counsaill at least shall go forth for the expresse service of her said Majestie, or for to discover countries for newe traffique, and this to be don upon caution put in the courte of thadmiraltie that they and their trayne shall behave themselves well in their voyage, as well towards the subjects of this realme as of other princes neighbors and allies to her saied Majestie ; which caution shalbe testified to the officers and ministers of the porte from whence any such shippe shall departe under the great seale of the Admiraltie, the lord Admirall, or his lieftenant hereunto authorized by her Majestie or the lords of her counsaill.

[2. Bond in £500 to be taken from the port towns not to suffer pirates to go forth.

3. Landowners and others resident near 'dark corners' and small havens to be bound in the same way,

4. And officers of customs.]

5. Item all vessells and shipps going out of this realme for trade of merchandise, to thende that in their voyages passing from one porte to an other, aswel within as without this saied realme, they be not stayed or hindered at the saied ports as suspected of some evill intention, her Majestie ordeyneth that every such shippe and vessell, before it departe oute of the porte where it is set forth, have letters of testimony sealed with the great seale of the Admiraltie, or of the Vice-admirall of the saied porte, and in places exempted out of the Admiraltie's jurisdiction, with the seale of the Mayor or principall officer of the place, or of the officers of the Custome there testifieing the place where they intende to go, and for what cause they go thether, as in tyme past hath ben accustomed. And the saied officers and ministers, if any of them testifie for other then for knowen merchants, to be chastened and punished as apperteyneth.

[6. Commissioners for the execution of these articles to meet every two months and see that they are carried out.]

1579. Extract from a commission to Sir Humfrey Gilbert to plant a colony, and by capture of their ships to prevent others from trading there.—*Patent Rolls*, 21 Eliz. pt. 4, m. 8.

. . . and moreover we doe by theis presentes, for us, our heires, and successors, gyve and graunte licence to the said Sir Humfrey Gilberte, his heires and assignes, and every of them, that he and they, and every or any of them, shall and maye, from tyme to tyme, and at all tymes,

forever hereafter, for his and their defence encounter, expulse, repelle, and resiste, as well by sea as by land, and by all other waies whatsoever, all and every such parson and parsons whatsoever as without the speciall licence and likinge of the said Sir Humfrey, and of his heires or assignes, shall attempte to inhabit within the said countries, or any of them, or within the space of two hundred leages nere to the place or places within such countries as aforesaid, yf they shall not be before planted or inhabited within the lymittes aforesaid with the subjectes of any Christian prince being in amitye with his Majestie, where the said Sir Humfrey, his heires or assignes, or any of them, or his or their, or any of their, associates or companyes, shall within six yeares nexte ensuinge make their dwellinges or abidinges, or that shall enterprise or attempte at any tyme hereafter unlawfully to annoye, eyther by sea or lande, the said Sir Humfrey his heires or assignes, or any of them, or his or their, or any of their companyes. Gyvinge and grauntinge by theis presentes further power and aucthoritie to the said Sir Humfrey, his heires and assignes, or any of them, from tyme to tyme, and at all tymes forever hereafter, to take and surprise by all manner meanes whatsoever all and every those parson and parsons, with their shipps, vessels, and other goodes and furniture, which without the licence of the said Sir Humfrey, or his heires or assignes as aforesaid, shalbe found trafficking into any harborowe or haborowes, creeke, or creekes within the lymits aforesaid, the subjectes of our Realmes and dominions, and all other parsons in amytye with us, being dryven by force of tempest or shippe wracke onelye excepted;

and those parsons and every of them, with their shippes, vessels, goodes, and furnytüre, to deteyne and possesse, as of good and lawful price according to the discrecion of him the said Sir Humfrey his heires and assignes and every or any of them.

* * * *

[Power for Sir Humfrey within the lands granted 'and in the waye by the seas thether and thence' to correct, punish, pardon, govern, and rule, all who should adventure with him.]

* * * *

1579 (?). Opinion that the Lord Admirall can, without special authority from the crown, issue commissions to capture pirates.¹
S.P. Dom. Eliz. cxxxii, 19.

First it is lawfull for every man, by the lawes of the sea, to apprehend and take pyrats, being public enemies to all estates, without authority or commission.

Secondly, the Queen's Majesty by proclamation published in Aprill anno 11^o regni sui, hath declared and denounced all pyrats and rovers upon the seas to be out of her protection, and lawfully to be by any person taken, punished, and suppressed with extremity.

Thirdly, the first and principall part of the Lord Admirall's office by law is, and ever hath been, to clear the jurisdiction apperteyning to his office, being the sea, of pyrats and rovers haunting the same; in respect whereof he hath, and ever hath had their goods and chattels, being condemned and atteynted for the same.

¹ Undated. This is not in Lewes' handwriting, but probably is his composition; it may be a copy of later date than 1579.

Fourthly, by his Lordship's letters patents it may appeare that he hath a more ample and larger power then to set forth ships to take pyrats.

Presidents of the putting of the same authority in use and execution ; there be many besides those that doe follow :

1. A commission from the Lord Lisle, Lord Admirall in Ireland in the xxviiijth yeare of King Henry VIII, to enquire and take pyrats upon the sea coasts of that realme.

2. Anno Domini 1552, Roger Hunt, clerk of the Admiralty, went into Cornewall, with commission from the Lord Admirall, to apprehend Strangwaies, Kelligrew, and their company, did in that his service forth, and send out ships to intrap them by force of his commission and trust committed.

3. Mr. William Winter, by order from the Lord Admirall, did apprehend Edmeston and other pyrats upon the coast of Suffolke in King Edward's dayes. David Wogeon and other pyrats taken by John Spuddell of Calice, and brought in thither ; which pyrats were hither conveyed and condemned by like authority. David Wogan, by like commission, did take Richard Cole, pyrat, at Limeray.

4. Anno Domini 1561 commission was given from the Lord Admirall to John Malyn, of Dover, to pass unto the seas to enquire of all piracies and spoyles, and to repress and take pyrats, and other suspect persons haunting the seas.

5. Sir John Parrot, Vice Admirall of South Wales, in anno 1562 inbarqued, himselfe with others, and in proper person went unto the seas, and incountred with certayn pyrats, which disturbed the common traffick of that country, and apprehended them.

6. There was, by order of the Lords of the Councill, upon letters to them by the Major and aldermen of Bristow, a commission to the Major of Bristow, and other his brethren to furnish and set forth ships to apprehend pyratts disturbing the common passage of ships betwixt Silley and that port, dated the 9th of November 1564.

7. In tyme of the last differences between us and the French, your Lordship, by order of the Lords of the Councill, did give lycence to divers of the subjects of this land to passe to the seas, to cleere the same of pyratts and foreign adventurers, without any other warrant or commission.

8. Mr. Holstock, since the generall arrests in both the realmes and dominions of her Majestie and the King of Spayne, went to the seas upon pretense to apprehend and take pyratts and rovers, by your Lordship's only warrant, and then did take 8 hulkes, and brought them into this port.

Last of all, the commission made to Master Lane was meant for a good purpose, being only to apprehend subjects of her Majestie, being pyratts, without any charge to her Majesty, and some losse to your Lordship ; and if there be any clause or sentence therein that cannot be well liked, it is to be imputed to me, and not to your Lordship ; and to me more for want of skill then good will to have conceived it in best and safest order for your Lordship, and fittest for the matter purposed.

1580. Commission to hear cases of spoil and piracy.¹—*Patent Rolls* No. 1606, (*Watson's Roll*), m. 15.

Elizabeth by the grace of God &c. To our right trustie and well beloved Sir Gilbert Gerrard, Knight, our Attorney Generall, David Lewes, doctor of laue and judge of our court of Admyraltie, John Popham esquire, our Solicitor Generall, Thomas Powle esquire, Clarke of our Crowne, Thomas Fanshawe and Peter Osborne esquires, George Barnes and George Bonde two of the Aldermen of our cittie of London, Thomas Aldersey, William Cocken, William Towarson, William Sherrington, Hugh Offley, Thomas Bramley, and Thomas Cambell, marchauntes of our saide cittie, Greetinge. Whereas in the nyneteenth yeare of our raigne Wee did by our letters of commission, directed unto all the shires of this realm upon the sea coastes, autorise certen commissioners for the apprehension and examynation of pyrates, favorers abettors and assistors of pyrates, buyors receyvors or conveyors of goodes, beinge by the saide pyrates stolen or spoiled upon the sea as well from honest quiett marchauntes and others both of our owne subjects as of other princes beinge in good league and amytie with us; And that notwithstandinge, as wee are crediblie informed, the said pirates are daylie favoured assisted and mainteyned in their detestable doinges, to the manifest contempte of us and our lawes,

¹ This is one of several similar commissions of the sixteenth century. There is another on the same roll, No. 27d, of 8th June 1583, for cases of spoil of Scottish ships. Others issued, 3 September 1569, 3 January 1599; see *S.P. Dom.* under those dates; and in 1601, Rymer xvi, 412.

and to the greate slander of this our realme. So findinge the inconveniences not yet remedied as we woulde wishe, have thought good to cause some further examynation and inquisition to be had therein ; And therefore for the speciall trust and confidence wee have conceived in your approved fidelities wisdomes and discretions have chosen and appointed you to bee our commysioners, and by these presentes doe give full power and auctoritie unto you, fouretene thirtene twelve eleven tenn nyne eight seaven sixe fyve or foure of you, whereof you the said Judge of our Admyraltie to bee one, to enquire searche and trie out from tyme to tyme in all places of this our realme of England and Wales, or our domynions, by oathes of twelve good men or otherwise by all waies and meanes you can devise of all manner of person or persons that have offended or hereafter shall offend in any of the premysses contrarie to the lawes and statutes of this our realme or equitie and justice ; and the same offendor or offendors cause to be apprehended, as well upon the sea as upon the land in such sorte and order as you shall thinke meete for the furtherance of this service ; And all those persons and every of them soe apprehended shall cause to come before you or fower of you, whereof the judge of our saide Admyraltie to bee one, at suche tyme and tymes as any person or persons haveinge receaved injurie by the said offendors shall make complaynte thereof unto you or fower of you as aforeseide, or at suche other tyme and tymes as you shall thinke meete ; And upon due examynation had by you or fower of you, (whereof the Judge of the saide Admyraltie to bee one), of the same offendor or offendors concernyng any the matters before recited and due proffe beinge made of suche

offence, Wee woll that you or fower of you, whereof the Judge of our saide Admyraltie to bee one, shall take order for the triall and reformation thereof, either crymynallie accordinge to the lawes and statutes of our realme or otherwise by mulcte or fyne as¹ by imprisonment accordinge as the case shall require in equitie and justice and accordinge to your good discretions or fower of you as aforesaide; And to cause restitution of the goodes spoiled or satisfaction to bee made for the same accordingelie; And to do all and every thinge and thinges as you shall thinke meete to bee done in this behalfe for the better inquiringe the truthe in the premysses and reformation thereof. And if upon suche complainte made by the partie plaintiffe yt shall appeare before you or foure of you, wherof the saide Judge of the Admyraltie to bee one, that the partie so brought before you as an offender not to bee giltye of any suche facte as before is mentioned, that then yt shalbee lawfull for you or foure of you, whereof the Judge of our saide Admyraltie to bee one, not onlie to release the saide partie so brought before you of the matter alledged against him, but also to cause the partie plaintiffe to pay unto the supposed offender all manner of charges whiche hee any way hath susteyned by reason of the said untrue complaynte and allegation made against him; and yf any person or persons so makeinge untrue complayntes before you or foure of you, whereof the Judge of our said Admyraltie to bee one, touchinge the premysses shall at any tyme refuse to pay unto the said supposed offender suche charges as he hath wrongfullie susteyned, that then also it shall bee lawfull for you, or four of you, whereof the Judge of our said Admyraltie

¹ *Sic* in original; qy. 'or.'

to bee one, to comytt suche person or persons so refusinge to warde, there to remayn withoute bayle or mayne prise untill suche tyme as hee or they shalbe contented to pay the said charges ; And further wee do by these presents give full power and auctoritie unto you, fouretene, thirtene, twelve, eleven, tenne, nyne, eight, seven, sixe, five, or any foure of you, whereof the saide Judge of our said Admyraltie to bee one, by warrante signed with the handes of you or foure of you to call before you at suche tyme and place as you shall thinke convenient as well all and every person and persons which you shall understand either to bee culpable in the premysses, as also suche as can witnes or testify any thinge therein, and them and every of them, upon their corporall othes to examyne upon suche interrogatories as shall bee by you mynistred unto them for the better triall of the truthe therein ; And further to stand to suche order and direction as by you or fower of you as aforesaid shalbee then and there lymtyed and appointed and thought needefull to be done touchinge the execution of this our commyssion ; And if any person or persons shall refuse to come before you, as before is mentioned, or to obey and accomplishe any order to be taken by you or fower of you as before is saide, that then yt shalbee lawfull for you likewise to comytt suche person or persons to warde, there to remaine without bayle or mainprise untill suche tyme as hee or they shall yelde to come before you and performe your order. Provided alwaies that this commyssion shall not in any wise be prejudiciall to any order taken in our courte of Exchequire for and concernyng the restitution of goodes spoiled, but that the same shalbee and remaine in full force, any thinge herein notwith-

standinge. Willinge and commaundinge all and singuler our justices of peace, vice-admyralls, maiors, sheriffs, bayliffs, customers, comptrollers, serchers, waterbayliffs, captaines of castells and bulwerks, kepers of gaoles, and all other our officers and subjects whatsoever, and to whom in this case it shall appertaine, to bee aidinge, assistinge, and obedient unto you in the execution of this our commyssion, as becometh them. In witness whereof etc. Witnesse our selfe at Westminster the seventeenth day of October in the twoe and twentieth yeare of our raigne.

1583. Instructions to Sir Richard Bingham to seize ships of the Low Countries to recompense the Queen for moneys (£35,000) lent by her.—*S.P. Foreign, Holland and Flanders*, xx, f. 78.

Instructions to be signed by the Lord Treasurer and Mr. Secretary.

The Queen's most excellent Majesty finding that sondry her great and extraordinary favors bestowed heretofore uppon the Estates of the Lowe Countreys, in the time of their distresse, have been by them unthanckfully requited, as shall appear by a declaration delivered herewith unto you, both in the Laten and English tongue, so as a certen debt by them dew unto Horatio Palavicino and Baptista Spinola, merchants of Genoa, is by ther default of paiement cast uppon her Highnes, with a yerly charge of interest, which otherwise then in good will to pleasure them in ther necessities doth not any waye

¹ Cf. *S.P. Dom. Eliz.* clxiii, 30.

concern her Majesty. Her Highnes, havynge essayed by all feare meanes for satisfaction hereof,¹ not meaning to putt up [with] these so great indignities any longer, but to make triall by way of seisure of such shippes and goods belonging to them of the Low Countryes, as wherout the said dett and interest may be discharged, and otherwise not to charge any of them by vertue of such seatur, whether she can be better answered for such summes as she hath ben forced to disburse for them, then hitherto by her Highnes' former mild persuading with them could be obtained.

For this purpose her Highnes' pleasure ys that, whereas you are directed to the seas with certen vessels to apprehend pyrats in the narrow seas, wherein you may do good service, that you shall specially bend your service also to mete with such fleetes of the shippes of the Low Countryes as you shall by any meanes discover to be in any sorte richely laden, ether passyng to the westward, or retorning homewards, to encounter with them and assaile them, and yet without force, (if it may conveniently be), and to make profe of them by all the best ways and meanes that you can.

And forasmuch as her Majesty ys credibly given to understand that there be every yere two severall fleetes of the inhabitants of those countryes which usually trade into Spaine, which thorough your good industrie, yt is thought, may be easly mett with, thone going for Spaine, thother retorning from thence, her Majesty's pleasure ys, that you should do your best endeavour to take one of them. But, before you

¹ These and many other words are inserted in Burghley's handwriting.

attempt the same, you shall do well to enforme yourself, by all the best meanes that you can, what substance may be in any of them, so as the prises to be taken by you may both counter-vaile the debt which her Highnes seketh to recover, and also all such other charges that may in justice be demaunded, and have bin employed, as well in the setting out of the said shippes, as also by other her Majesty's mynisters that have bin heretofore from time to time employed to sollicite the paiement, both [of] the principall and also of the interest sithence growen, which at least amounteth to the sum of fower or five and thirtye thousand poundes. And to this end you shall uppon your first seasing of them, if you be not certen of the vallew . . . they shall be laden, to pretend that you have charge to serch for certen notorious treators and rebels agaynst her Majesty as lately fled out of England, and thought to be collorably shipped in marchant shipp to pass into Spayn ; that is, if the shippes you chardge be going from the Low Countryes ; or else you shall saye that they are rebells that have been in Spayn, and ar to come into the Low Countryes collorably to pass into Scotland ; and by this pretence . . .¹ [And in case ether of them fall into your hands, you shall forthwith, as wind and wether will serve you, bring them to the next porte of this realme, and take order for] ther staye there, untill such time as you shall have certified the same unto us, the lord Treasurer and me, her Majesty's Secretary, or to either of us, to thentent that theruppon you may receave

¹ *Seemble*, several words here are missing. The words following within square brackets are from the other copy mentioned below.

farther direction from us, or either of us, what shall be farther done with your said prise.

And in this service you must have an especiall care that, so nye as you can, no one shipp of the said fleete, which you shall happen to meete with, and mind to sett uppon, do escape you ; and that forthwith, uppon ther seasure, you take in to your handes, out of every of them, all and singular ther bookes and bills of lading, [and] charter partyes, into your owne handes and custody, keeping them safely, and that in any wise you take straight order with all of your company that no part of the lading or goods of the sayd shippes and their apparell and furniture be taken and embeseled, nor bulk broken.

And when as you shall have taken this order first, then shall you call unto you the masters, pursers, factors and merchants of every of the said shippes, and acquaint them with the cause of this your proceeding, according to this your Instruction, and the copy of the declaration delivered herewith unto you in Englishe ; and further deliver unto them a declaration in latin, which you shall receive herewith, containing the just cause of their arrest, and ther-uppon suffer the factors and merchants depart with the same either by sea or land.¹

(Another draft of similar Instructions, in different words and at greater length, follows. This has none of Burghley's writing upon it, but has been revised by another hand.)

¹ There is no signature.

1585. Bond by Sir Walter Raleigh to account for pirates' goods and other profits, as Vice-Admirall of Cornwall.¹—
Admiralty Court, Letters of Marque Bonds, 1.

Know all men by these presents that I, Walter Raleigh, Knight, am bound and surely obliged to the most noble and honourable Charles, lord Howard of Effingham, Knight of the most noble order of the Garter, lord high Admiral of England that now is, in five hundred pounds of English money, to be paid to him, Charles, lord high Admiral of England, or to his appointed attorney, his heirs or executors ; for the good and faithful payment whereof I, by these presents, firmly bind myself, my heirs and executors. Sealed with my seal, [and] dated the twelfth day of the month of August, in the year of the Lord, 1585, and in the twenty-seventh year of the reign of my lady Elizabeth, queen [of England, &c.].

W. RALEGH.

Sealed and delivered, to the use of the said lord high Admiral, in the presence of us,

EDWARD COLLARD, RICHARD HAYNES.²

The condition of this within written obligation is such that yf the within bounden Walter Raleigh, Knight, presently appointed and deputed by the within named right honorable Charles Lorde Howard, Baron of Effingham, and lord high

¹ He was also Vice-Admiral of Devonshire ; and there is a similar bond for that county.

² The above is a translation of the original in Latin ; the condition below is in English.

Admirall of England, to be Vice Admirall in the countie of Cornwall and the sea quoasts thereunto adjoyning, doe yealde and make or cause to be made a trewe juste and perfecte accompte of all suche piratts' goodes, concelmentes, profitts, and casualties, as shall happen to growe and rise within the precincte of the said Viceadmirallshippe, twise everie yere, viz. in Michaelmas terme and Easter terme, yerelie, duringe the tyme he shall continue in that service, and the same accompte presente and exhibite, or cause to be presented and exhibited, in the Quene's Majesties principall courte of thadmiraltie, and alsoe doe there in the same termes render and paie, or cause to be paide, the valewe of the moietie of all suche pyratts goodes, concelments, profitts, and casualties, to the use of the saide Lorde Admirall, withoute fraude or covyn, that then this obligation to be voyde and of noe force, or els to remaine in full power strength and vertue.

1585. Articles sette down by the Lords and others of her Majestie's honorable privy Counsell for the merchauntes, owners of shippes, and others, whose goods have been arrested in Spayne, and have licence from the Lorde Admirall to repayre unto the seas, according to a commission granted from her Majestye in that behaulfe; dated the ixth of July 1585.—*S.P. Dom. Eliz.* clxxx, No. 15.

These are printed in *Navy Records*, vol. xi, p. 36¹; other copies are *Adm. Ct. Exemplifications* 23, No. 212; *Ibid.* 29, No. 113. Except some that were issued to the Cinque

¹ 'Censure' in Art. 1 should be 'seasure.'

Ports Admiralty in 1577 (*Add. MSS.* 34150, f. 180; *Adm. Ct. Libels* 78, No. 61), they are the earliest that have been found, and are the precedent for a long series of similar Instructions to privateers, which, until recently, have been issued at the commencement of every war, and are founded upon them. They contain no provision for adjudication in the Admiralty Court; this omission was rectified by the Order of Council set out below, p. 252. The Instructions of 9th July 1585 are eight in number, and their short effect is as follows:

1. Proof of loss is to be made in the Admiralty Court.
2. Spanish ships and goods may be captured as in time of open war.
3. Bond to be given to bring prizes to England, and not to break bulk.
4. The captor may keep or sell the goods after inventory made.
5. Captors not to be challenged in respect of their prizes nor those who victual or aid them.
6. Buyers of prize goods not to be challenged.
7. Before issue of letters of reprisal, the ship's name, tonnage, captain, victuals, crew, ordnance, and munition, are to be specified to the judge of the Admiralty, to the intent that the ordnance may be returned.
8. Prizes to be shared, as to one third to the owners, one third to the victuallers and one third to the crew.

Probably similar instructions had been issued in the earlier years of the reign; but of early ones none have been found except those issued by the Warden of the Cinque Ports in 1573 (*supra*, p. 197). He again issued Instructions, eleven in number, similar to those of 1585 on 23rd August 1587; *S.P. Dom. Eliz.* vol. cciii, No. 51. Both those of 1573 and 1587 carefully safeguard the rights of the Cinque Ports Admiralty as an independent tribunal.

1585. Letters of reprisal to John Kitchin against Spain.—*Adm. Court, Exemplifications* 23, No. 213.

Charles Lorde Howarde, &c., To all Christian people to whom theise presents shall come, or otherwise apperteaigne, Greeting in our Lord God everlastinge. Whereas our soveraigne Lady,

Elizabethhe, by the grace of God Queene of Englande etc., beinge credibly advertised that the King of Spayne hathe of late made staye of the shippes, goods, and debts, of here loveinge [subjectes] within the realmes of Spayne and Portingall, and other places of his dominions, and hathe caused them, there beinge for the trade of merchaundize, to be retayned, contrarye to all order of lawe and justice ; uppon the humble and pitifull suite of her sayd subjectes, the merchants, owners, and other interessed in the goods and persons soe stayed, made to here Majesty for letters of reprisall to be graunted to them ; And that they, not having any other meanes by order of justice to be yealded to them, myghte be lycensed to staye, apprehende, and take, the goods of subjectes of the Kinge of Spayne, where-soever uppon the seas, to answeere and sattisfye the losses and domages by them susteayned by reason of their shippes and goods so taken and de-teayned, Hathe by here letters patents, bearinge date the [ixth] of July laste paste, under here Majestie's greate seall, willed and aucthorized me, as her Majestie's Admyrall, to graunte commissions for apprehending and takinge of the goods of the subjects of the Kinge of Spayne to suche her loveinge subjects soe dampnified, and in suche manner and forme, and accordinge to suche Articles and orders, as by the Lords and othere of here Majestie's Pryvey Counsell, or by any sixe of them, shoulde be agreed uppon and sette downe in writinge under their hands. And whereas tenne of the Lordes and others of here Majestie's Pryvey Counsell have agreed uppon certayne articles and orders in that behalfe, and have sette downe the same in writtinge under their hands, and have [delyvered] the same to

me for my direction herein, whiche articles and orders be and remayne with me of recorde; And whereas, further, one Robert Kitchyn, of Bristow, merchaunte, hathe made prooef before me that certayne of his goodes, moneys, and merchaundizes weare of late stayed, arrested, and detayned, in the partes of Spayne by the Kynge's order and aucthority there, and that the losse and damage unto him by reason of the sayd staye and seazure arysinge doethe amounte to the some of 6500^[li]; Where uppon the sayd Roberte Kytchyn hath redy equipped, furnished, and victualled to the seas, one shippe called the Gifte of God, of Bristowe, of the burthen of cl tonnes, under the conducture and guydinge of John Satchefeilde, captayn, and Christophere Birkett, master, of the same, and lxxx maryners and men of warre, being victualled for fowere mounthes, and furnished withe xxiiij caste peces and fowlers of iron; And hathe likewise entered into bounde in the courte of Thadmyraltie that neythere the sayd shippe, nor any the company therof, shall attempte any thinge agaynst any of Her Majestie's loveinge subjects, or the subjects of any othere prince or potentate beinge in league and amitye with here Majesty, but onely agaynst the subjects of the Kinge of Spayne; and allsoe that they shall bringe suche shipps and goods as they shall soe happen to take and apprehende of the subjects of the Kinge of Spayne to some ports of this here Majestie's realme of Englande; and not to break bulke before the Vice Admirall of the same porte be made acquainted therewithe, or his deputye, and other publique officers of the same porte, and a trewe inventory taken therof, and an apprayesment made of the same goods by six honeste men, inhabitants

of the sayde porte ; and that the same inventory and praysmen^te shalbe retourned into her Majestie's highe courte of Thadmyralty aforesayd within sixe weekes nexte after ensueinge ; Know ye, therefore, that I, the sayd Lorde Charles Howard, Lorde Admyrall aforesayd, by virtue of here Majestie's sayd letters patentes to me directed, doe lycense and aucthorise the sayd Roberte Kitchyn to sende unto the seas the sayd shippe called the Gifte of Gode, soe as is abovesayde furnyshed and munited, and therewith to sett upon by force of armes and to take and apprehende any of the shippes or goods of the subjects of the Kinge of Spayne in as ample manner as yf it weare in tyme of warre between her Majesty and the sayd Kinge of Spayne, and the same shippes and goodes so taken and broughte into some porte of this realme, and an inventory therof taken, and praysmen^te made, in manner and forme aforsayd, then the same shippes, goodes, and merchaundizes to kepe and retayne in his or theire possession, and to make sale and dispose therof in open markette, or howsoever ellse, to their beste benefitte, in as ample manner as att any tyme here to fore hathe bene accustomed by waye of reprisall, and to have and enjoye the same as lawfull prizes, and their owne proper goodes, soe that neythere the sayd Kitchyn, his captayn, master, or any other that shall in his owne person serve in the shippe aforesayd, or otherwise beare chardge in thadventure, or in any other sorte further or sette forward the sayd enterprize in manner aforsayd, shall not be reputed or chalinged for any offender agayneste her Majestie's lawes ; And that allsoe it shalbe lawfull for any manner of parsons to buy the sayd shippes, goodes, and merchaundize soo as is aforsayde, taken, praysed, and inven-

taryed, without any daunger, losse, hinderaunce, trouble, molestation,⁴ or incumbraunce, whate-soever, in as ample and beneficiall manner as yf the sayd shippes, goodes, and merchaundize, had bene come by through the lawfull trafique and trade of merchaunts, or as juste prizes in the tyme of warre. Provided alwayes that the sayd shippes, goods, and merchaundize soe taken as before [mentioned], after an Inventory and praysement made of them in manner and forme abovesayd, shalbe equally devided into three partes, whereof one parte to goe to the merchauntes and owners of the shippe aforesayd, an othere parte to the victuallers, and the third parte to the captayne, master, maryners, and souldiers of the sayd shippe. In wittnes wherof I have here unto caused the greate sealle of my office to be affixed. Given att London in the highe courte of Thadmyraltie aforsayd the xjth of July 1585.

1585. Letter from the Lord Admiral to the judge of the Admiralty, directing him to issue letters of reprisal against Spain to John Foxall.—*Adm. Court, Letters of Marque Bonds*, 1.

Mr. Caesar, Wheras there hathe ben delivered unto me from one John Foxall, of London, merchant, a note of sundrye losses by him and one John Feild, his partner, sustained by arrestes made of their goods and marchandises at Cadiz, in Spain, to the value of 7800^{li}, wherof (as he enformethe) they have heretofore made prooffe in the court of thadmiraltie, and could never obtaine anie restitution, although meanes have ben made from her Majestie to the King by Sir

Henry Cobham and Sir John Smithe, Knights, at their severall ambassies into Spaine, whereby the said Foxall hathe ben brought to utter undoing and decaye, and therefore, among others, is now an humble suitor to be licenced to arme forthe some shippe for reprisall against the subjectes of the said King of Spaine. Theis shalbe therefore to require you, according to the articles heertofore sett downe for those purposes, and the course alreadye held with such as have ben licenced in the like, to deliver unto the said Foxall a commission, under the seale of myne office of Admirall, for the armeing forthe of one shippe to the seas by waie of reprisall, to recover uppon the subjectes of the said Kinge suche recompense and restitution as maye countervayle his losses and damages sustained. And this shalbe your sufficient warrant in that behalf. So fare you well. From the court at Richemond the xxviijth of November 1585.

your lovyng frend,

C. HOWARD.

To my loving freende Mr. Doctor Caesar, Judge of her Majestie's highe court of the Admiraltye.

1585. Warrant for letter of reprisal against Spain and those of the Low Countries, with authority to capture those supplying them with food or war material.—*Admiralty Court, Letters of Marque Bonds*, 1.

These are to will and require you to make out commission of reprisall unto David Cabreth, of Lynn, in the county of Northfolke, to sett out

one ship against the Kinge of Spayn, and all other his subjects in any of his dominions, and alsoe against her Majestie's enemies of the lowe countries ; and to take as lawfull prises all those which relieve them with victuall, or ayde them with munition, under such articles which are sett downe by the Lordes of her Majestie's most honorable privie counsell for breakinge bulke, &c. It is not requisite for him to make prooffe of losses, because he is to be employed in her Majestie's service against the Dunkerkers, and others their adherents. And this shalbe your sufficient warrant for the same. From the court at Richemond this xiiijth of November 1585.¹

Your loveinge freind,

C. HOWARD.

To Mr. Doctor Cesar, judge, and Mr. Hareward, registre, of the Highe Courte of the Admiraltie.

1585. Recognisance by John Hawkyns for the good behaviour of the Elizabeth, for which letters of reprisal had issued. The recognizance is in £1000,² conditioned as follows.—*Admiralty Court, Letters of Marque Bonds*, 1.

The condition of this recognizaunce ys suche that where William Hawkyns, Humfrey Fones and companye of Plymouthe, are by vertue of a commission of reprisall obteyned from the above-said Lord Admirall authourised to sett furth to the seas one shippe called The Elizabeth of Plimouthe, of the burthen of fourescore tooones,

¹ The Robert Bonaventure had a similar commission. *Ibid.* a letter of 4 November 1585.

² This and the following three recognisances are in the same form as above, p. 188, but the conditions are different.

or thereabouts, and a pinnace of xxiiij tonnes, whereof Thomas Peeres goethe for master, with men, ordenance, and victuall sufficiente for the same service, for thapprehendinge and takinge whatsoever the shippes, goodes, and merchaundizes, belonging to the subjectes of the kinge of Spayne, towardes the satisfyeinge and recompencyng of certayne theire goodes, moneys, and merchandizes, with losses and dammadges by the said arreste of theire said goodes made in Spayne; Yf, therefore, the said master with his shippe, pinnace, and companye, doe bring suche shippe, goodes, and merchaundizes, as they shall soe take and apprehende, to some porte of this her Majestie's realme of Englande as shalbe moste conveniente for them, and doe not break bulke before the Vice Admirall of the same porte, or his deputy, and other publicke officers of the same porte, be made acquaynted therewithe, and also, uppon theire said arrivall, doe cause a juste and perfected inventory to be taken of the said goodes soe taken, and a trewe appraisement thereof to be made by some six honest men, inhabitants of the same porte, and doe returne the said inventory and appraisement into the said highe courte of the Admiraltye within six weekes then nexte after ensewinge, and also doe answere and paye, or cause to be answered and payde in the said courte of Thadmiraltye, to the use of the said Lord Admirall, the full tenthe parte of all suche shippes, goodes, and merchaundizes, as the said master, with his shippe, pinnace and companye shall take and apprehende at the seas by vertue of the sayd commission, at the tyme of exhibitinge of the said inventory and appraisement, as aforesaid, and likewise doe not attempte eanye thinge agaynst eany of her Majestie's loving subjectes, or the subjectes of eany other princes or states beinge in good leage

and amity with her Majestie, but onely agaynst subjectes of the sayd kinge of Spayn, that then this recognizance to be voide and of noe force, or else to remayne in full power and force.

JOHN HAWKYNS.

1586. Recognisance by John Couper to answer for Spanish goods arrested at Padstow on board an English ship, to recompense him for his losses. The recognisance is for £2000, and the condition is as follows.—*Admiralty Court, Letters of Marque Bonds*, 1.

The condition of this recognizance is such that, where the above bounde John Cowper is by the Lords of her Majestie's Privie Councill allowed the sum of elleven hundrethe poundes sterling in recompence of his goodes latly stayed on board the Brigett of Southampton at St. Sebastian's, in Spaine, by the Kinge's order there, and ordered to receive the same uppon a shippe and goodes latelye putt into Padstowe or thereabouts, belonging, (as it is pretended), to the King of Spaine's subjects; Yf, therefore, the said John Cowper, his heires, executors, administrators, and assignes, and everye of them, be from hence furthe answerable for, and satisfie and paie into, the highe courte of Admiraltie the valewe and price of the said goodes, accordinge to appraise-mente thereof, to be made by auctoritie of the said courte of Admiraltie, or so much thereof as shall come to the handes of him or his assignes, yf eanye lawfull clayme or suite shalbe made hereafter by eanye French man, or other straunger whosoever, or uppon eanye generall order which shalbe taken betwene her Majesty and the said

Kinge of Spaine towching these arrestes on both sides, and doe discharge, save, and kepe harmlesse, her Highnes, and the now Lord Admirall, the judge of this court, and thother officers of the same for the said goodes agaynst the abovesaide Kinge, and his subjectes, and such other as make lawfull clayme to the same hereafter, and doe bringe and exhibitt, or cause to be broughte and exhibited, into this courte a juste and trewe inventory with the appraisement of the said goodes betwene this and the firste of June nexte cuminge, that then this recognizance to be voide and of noe force, or else to remayne in full power and vertue.

J. COUPER.

1586. Recognisance by William Fenner and Thomas Sturgis for the good behaviour of the Galleon Fenner, for which letters of reprisal had issued. The recognisance is for £2000, conditioned as follows.—*Admiralty Court, Letters of Marque Bonds*, 1.

The condition of this recognizaunce is suche that, where the above bounde William Fenner, gentleman, and Thomas Sturgis of Chichester, in the county of Sussex, merchaunte, are by virtue of a commission of reprisall obteaned from the above Lord Admirall, authorized to sett furthe unto the seas one shippe called the Gallion Fenner, of the porte of Chichester, whereof he, the said William Fenner, goethe as captayne, with men and ordinaunce and victuall sufficiente for the same service, for the apprehendinge and takinge whatsoever the shippes, goodes, and merchaundizes,

belonginge to the subjectes of the Kinge of Spayne, as by the tenor of the said commission more at lardge appeareth; Yf, therefore, the said William Fenner, with his shippe and company doe bringe suche shippes, goodes, and merchaundizes, as they shall soe take and apprehende to some porte of this realme of Englande as shalbe most conveniente for them, and doe not breake bulke before the Vice Admirall of the same porte, or his deputy, and other publique officers of the same porte be made acquainted therewith, and alsoe uppon their said arryvall doe cause a juste and perfecte inventory of the said goodes soe apprehended to be taken, and a trewe praysemente thereof to be made by some sixe honeste men, inhabitants of the same porte, and doe returne the said inventory and appraysemente into the said highe courte of Admiralty within sixe weeks then nexte after ensueinge, and also doe answer and paye, or cause to be answered and payed in the said highe courte of Admiralty, to thuse of the said Lord Admirall, the full tenthe parte of all such shippes, goodes, merchaundize, and money as the said shippe and company shall take and apprehende att the seas by virtue of the said commission att the tyme of the exhibitinge of the said inventory and appraysemente as aforesaid, and likewise doe not attempte any thinge agayneste any of her Majesty's loveinge subjectes, or the subjectes of any other princes or states beinge in good league and amity with her Majesty, but onely agayneste the subjectes of the said Kinge of Spayne, that then &c., or else &c.

WILLIAM FENNER.

Recognitum coram me, Julio Caesare, domino
judice, die et anno supradictis.

JUL. CAESAR.

1586. Recognisance by Simon Lawrence and another, to whom letters of reprisal for the Amity had issued, that he will prove losses at the hands of the Spaniards to the amount of £2000. The recognizance is in £100, conditioned as follows.—*Admiralty Court, Letters of Marque Bonds*, I.¹

The condition of this recognizaunce is suche that wheare the above bounde Symon Lawrence and Henry Colthurst, together with Olyver Stile and Nicholas Stile of London, are to set furthe unto the seas one shippe called the Ametie, of London, for the apprehending and taking whatsoever the shippes, goodes, and merchaundize, belonging to the subjectes of the kinge of Spaine, in respect of their, the said Symon Lawrence, Henry Colthurst, Olyver Stile, and Nicholas Stile's goodes and merchaundize, amounting, as the said Symon and Henry affirmed, to the some of two (?) thowsand pounce sterling stayed and arrested in the said kinge of Spaine, his domynions, and have not made sufficient proove as yet of the staying of the said some; If, therefore, the said Symon Lawrence and Henry Colthurst, their executors, administrators, or assignes, or one of them, doo make and exhibit, or cause to be made and exhibited into this her Majestie's highe courte of thadmiraltie dewe and sufficient proove that theye have at this presente goodes and merchaundize stayed in the

¹ Cf. *Adm. Ct. Exempl.* 27, No. 33, shewing that proof of loss was required and taken. At first formal sentence, declaring that the loss had been proved, was passed; but this was soon dispensed with. The form of such a sentence is printed in Selden Society, *Admiralty Court*, ii, 165.

said Kinge of Spaine his domynions, amounting to the said some of MM^{li} sterling, at or before the eight daie of January 1586 next ensewing after the date above written, that then this presente recognizaunce shalbe voide, or ells &c.

per me SYMON LAWRENCE,
HENRY COLTHURST.

1587. Statement by Francisco Tassis as to the practice of the Spanish Admiralty, in condemning, as prize, all goods captured in an unfree (enemy) ship.—*Adm. Court, Examinations* 26, 13th April 1587.

Francis Tassis, of Ferrara in Italy, ordenary post for Flanders, Fraunce, and other places, beinge resident in the city of London, of the age of 1 yeres or thereabouts, sworne and examined before Mr. Doctor Cesar, judge of her Majestie's highe courte of Thadmiraltye, uppon certayne articles geven agaynst him on the behaufe of Richard Poulter sayeth thereunto as followeth :

To the firste and second articles he affirmeth, by chardge of his oathe, that there is a lawe and ordenaunce at this presente observed and put in use at Dunkerke, that all goodes to what nation soever they belonge, beinge laden in the ennimyes' bottome, and taken thether, are good prize and confiscate, of this examine's knowledge. Which he knoweth to be true, ffor that aboute October last after Richard Poulter, with his shippe, the *Hinde* of London, and her ladinge, in her viadge from Hamborough towards London, was taken to Dunkercke, [and] this examine was sente over to Dunkercke by Phillippe and Bartholomewe Corsiny and other Italions, who had certayne

goodes in the said shippe, to seeke restitution and recovery thereof. And on the third day of October laste this examine was before the Prince of Parma in the towne of Becqueroy, and made humble suite for recovery of the said goodes ; who referred this examine to the Fiscal, or Auditor Generall of all the Admiralty, at that presente. And at this examine's cominge to him, he the said Auditor tould this examine, and shewed him the booke of statutes, wherein it was decreed by the Emperor, confirmed by kinge Phillippe, and also the prince of Parma, that all goodes laden in an unfree bottom, (as they nowe terme Englishe shippe by reason of the trowbles), to what nation soever they appertayne, are by that lawe and order merely confiscate and good prize, if they be taken to Dunkercke, or other places under the Kinge's governaunce ; and by reason thereof all the goodes laden in the said Poulter's shippe were confiscate, and adjudged for lawfull prize, of this examine's knowledge. And also sayeth that, at the same tyme, that this examine was suyng for the said goodes, there were two shippes laden with herringes and hides, belonginge to Scottishe men, one being an Englishe shippe, and the other a Scottishe shippe, broughte to Dunkercke ; where this examine sawe the matter debated at length concerning those shippes, and profe was made that the captayne of the Scottishe shippe had served agaynst the kinge of Spayne, and yet because the shipp was a free bottom, both shipp and goodes were released and freed, and the other goodes, although belonginge to Scottes were by vertue of the said lawe or decree founde prize, and soe both the same & the shippe confiscated. Which he affirmeth to be most true.

IO, FRANCISCO TASSIS.

1587. Recognisance for £100, to prove losses of £2000.¹—*Admiralty Court, Letters of Marque Bonds, 1.*

The condition of this recognizaunce is suche that wheare the above bounde Symon Lawrence and Henry Colthurst, together with Olyver Stile and Nicholas Stile of London, are to set furthe unto the seas one shippe called the Ametie of London for the apprehending and taking whatsoever the shippes goodes and merchaundize belonging to the subjects of the kinge of Spaine in respect of their, the said Symon Lawrance, Henrye Colthurst, Olyver Stile, and Nicholas Stile's goodes and merchaundize, amounting, as the saide Symon and Henrye affirmed to the some of two thowsand poundes sterling, stayed and arrested in the saide kinge of Spaine, his domynions, and have not made sufficient prooe as yet of the staying of the said somme; If therefore the said Symon Lawrance [and] Henry Colthurst, their executors, administratours or assignes, or one of them, doo make and exhibit, or cause to be made and exhibited, into this her Majestie's highe courte of Thadmiraltie dewe and sufficient prooe that theye have at this present goods and merchandize stayed in the said Kinge of Spaine, his domynions, amounting to the said somme of MM^{li} sterling, at or before the eight daie of January 1586 next ensewing after the date above

¹ The proof of loss seems to have been gradually dispensed with. In the same bundle are warrants, (Richard Pett) in which Howard writes 'it shall not be nedefull for him to make prooe of losses'; (Richard Cawfeilde) the same, 'because they must be imployed in some verie necessary service.' The form of the recognisance is as before.

written, that then this present recognizaunce shalbe voide, or ells &c.

per me SYMON LAWRENCE,
HENRY COLTHURSTE.

1589. Order of Council that all captures should be brought in for adjudication in the Admiralty Court.—*Admiralty Court, Exemplifications* 29, No. 113.

It ys further ordered that all shippes, goods, and merchandizes, taken by vertue of eany commission of reprisall aforesaid shalbe kepte savely, and noe part of that sould, spoyled, wasted, nor diminished, till judgement hath first passed in the high courte of the Admiralty that the said goodes are a lawful prize; otherwise the said commission to all purposes to be voide, as well to the taker as to all other who shall buy or intermeddle with the said goodes or eany part thereof.¹

1589. Commission authorising Howard to issue letters of marque to Englishmen to capture Leaguers.²—*Adm. Court, Exemplifications* 26, No. 51.

Elizabeth by the grace of God Queene of England Fraunce and Ireland, defendor of the

¹ This is appended to the copy of the Instructions in *Ad. Ct. Exempl.* 29, No. 113; there is a note in the margin: '29 July 1589. Added by their Lordships' order, Fra. Walsingham.' The order has not been found in the Acts of the Privy Council. As to abuses owing to absence of adjudication, see *Adm. Ct. Exempl.* 32, No. 119.

² The draft has been revised in Caesar's hand; it has not been found on the Patent Roll. Instructions for these privateers are in *Lansd. MSS.* 148, f. 170.

Faith etc. to our right trusty and welbeloved councellor, Charles Lord Howard Baron of Effingham, Knighte of our Noble Order of the Garter, our High Admirall of England, Ireland, and Walles, and the Dominions and Isles of the same etc. Greetinge. Whereas our lovinge brother Henry, Kinge of Fraunce and Navarre, beinge greatly annoyed, and his lovinge subjectes dayly infested and spoyled by his rebells, the Leagers, and others their favorers and abettors, both by land and sea, hath earnestly written to us to graunte commissions to such our lovinge subjectes as will undertake the service of the said King, or enfeebling, taking, and vanquishing, of his said rebells, their shippes and goodes; Theise are therefore to will and require you, and by vertue of theise presents to aauthorize you, as our Admirall, to graunt your commissions under the greate seale of your office for the apprehending and taking of the said rebells and Leagers, and their shippes and goodes, to such our loving subjects as have byn dampnified by the French, or that will undertake that service, in such manner and forme, and according to such Articles and orders, as shalbe agreed uppon and advised by you, our said Admirall, and Mounsieur de Beavoir, Embassador unto us for the said Kinge, and sett downe in writinge under your handes, to remayne with you in our High Court of Admiralty uppon record for better direction in this course. And theise our letters patentes shalbe your sufficiente warrente and dischardge in that behawlf. Witness our self at Richmond the of November 1589 and in the xxxjst year of our raigne.

1589. Sentence¹ of the Admiralty Court, condemning the *St. Anthony* and her cargo as good prize.—*Adm. Court, Libels* 57, No. 82.

In the name of God, Amen. The merits and circumstances of a certain cause or matter, that is being heard before us, Julius Caesar, doctor of laws, the duly appointed judge lieutenant of the high court of Admiralty of England, at the instance of Thomas Ellys, seaman, the master of an English ship called the *Salamander*, of the port of London, and still remains undecided, the representative of him, Thomas Ellys duly appearing before us in court, and earnestly praying and demanding that sentence may be passed, and that justice may be done to his party; and the whole and complete process in the cause having been first investigated, completed, perfected, and carefully reviewed by us; and the matters that should of right be preserved in this behalf having been by us preserved; we have proceeded, and now proceed, to promulgate our definitive sentence, or final decree, in the said cause in manner following: Because, by the acts² enacted, set forth, alleged, proposed, exhibited, narrated, and proved, in the aforesaid matter we have ascertained, and clearly find that the representative of the aforesaid Thomas

¹ This is the first formal sentence of condemnation as lawful prize that appears amongst the records of the Court. After this date they are frequent. No. 196 on the same File is a first decree putting the Earl of Cumberland into possession of a prize, and there are several sentences similar to the above; Nos. 6, 7, 29, 38-43, 72, 73.

² *Id est*, proceedings in the suit; pleadings, evidence, &c.

Ellys has sufficiently and fully founded, and likewise has, in respect of the matters referred to below, proved his contention set forth in an allegation made and propounded on his behalf in this cause, the terms of which are as follows :— ‘ On which day, &c.’ ; which allegation we take, and desire to be taken, as here read and inserted, and that nothing effectual has by any one purporting to have any right in the matters referred to below been alleged by way of exception, set forth, propounded, or proved whereby the contention of the said Thomas Ellys in this behalf is refuted or in any manner whatsoever derogated from ; Therefore we, Julius Caesar, pronounce, decree, and declare that the ship in the allegation mentioned, called the St. Anthony of Olinda, and all and singular the goods, things, wares, and merchandise, in her at the time of her capture, specified in the schedule annexed to these presents, in right of ownership or quasi-ownership, belonged and appertained and now belongs and appertains to subjects of the king of Spain ; and that the same ship, and all and singular the aforesaid goods, things, wares, and merchandise were and are captured and carried off by the said Thomas Ellis and his fellows, who were lawfully authorised and empowered in that behalf by virtue of letters of reprisal granted to them to that end by this honourable court ; and by this our sentence definitive, or this our final decree, which we pass and promulgate by these presents, we adjudge the same ship called the St. Anthony of Olinda, and all and singular the goods, things, wares, and merchandise aforesaid to have been lawfully captured.

JUL. CAESAR.

Jo. Hunt.

In Dei nomine, Amen. Auditis, visis, et intellectis ac plenarie et mature discussis, per Nos, Julium Caesar, legum doctorem, supreme curie Admirallitatis Anglie judicem locum tenentem sive presidentem legitime deputatum, meritis et circumstantiis cujusdam cause sive negotii, que sive quod coram nobis ex parte Thome Ellys, naute, magistri navis Anglicane vocate the Salamander, portus Londoniensis, vertitur et pendet indecisa, rite et legitime procedentis; Parte ejusdem Thome Ellys coram nobis in judicio legitime comparente ac sententiam ferri et justitiam fieri, pro parte sua instantanter petente et postulante; Rimatoque primitus per nos toto et integro processu in hujusmodi causa, habito, et facto, ac diligenter recensito, servatisque per nos de jure in hac parte servandis, ad nostre sententie diffinitive, sive nostri decreti finalis prolationem in dicta causa ferende sic duximus procedendum fore, et procedimus in hunc qui sequitur modum. Quia per acta, inactitata, deducta, allegata, proposita, exhibita, narrata, et probata, in negotio memorato comperimus et luculenter invenimus partem prefati Thome Ellys intencionem suam in quadam sua allegacione ex parte sua in hac causa data et oblata deductam, cujus quidem allegacionis tenor sequitur et est talis:—Quo die Decons, [*proctor*] etc., Quam quidem allegacionem pro hic lect' et insert' habemus, et haberi volumus, sufficienter et ad plenum, quoad infrascripta, fundasse pariter et probasse, nihilque effectuale ex parte aliquarum personarum in infrascriptis aliquod jus habere pretendendum exceptum, deductum, propositum, aut probatum, quod intencionem dicti Thome Ellys in hac parte elideret seu quomodolibet enervaret; Idcirco Nos, Julius Cesar, legum doctor, judex antedictus, Christi nomine primitus invocato, ac ipsum solum Deum oculis nostris proponentes et habentes, ac de et cum consilio jurisperitorum cum quibus in hac parte communicavimus, navem allegatam, vocatam le Saint Anthoni de Olinda, omniaque et singula bona, res, merces, et mercimonia, in eadem tempore capcionis ejusdem existentia, in schedula presentibus annexa specificata, ad Regis Hispanie subditos jure domini

sive quasi pertinuisse et spectasse, ac sic spectare et pertinere ; eandemque navem, ac omnia et singula bona, res, et merces, ac mercimonia predicta, per dictum Thomam Ellis ac socios, auctoritate legitima in hac parte munitos et fulcitos, ac virtute literarum quarundam reprisaliarum ab hac inclita curia sibi ad illam finem concessarum, capta et abducta fuisse et esse pronunciamus, decernimus, et declaramus ; Eandemque navem, vocatam the Sainct Anthony de Olinda, omniaque et singula bona, res, merces, et mercimonia predicta, tanquam bona legitime capta adjudicamus per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

Jo. Hunt.

JUL. CAESAR.

1589. Award of Howard, Walsingham, Caesar, Hawkins and others as to the sharing of two Spanish prizes captured by five ships under the orders of George Sommers as Admiral.¹

1590. Howard to Sir John Gilbert and others. No prize goods to be landed until information given to the High Court of Admiralty, and proof there made that they belonged to Spain.—*Adm. Court, Exemplifications* 27, No.

112.

Charles, Lord Howard, &c. To my well-beloved Sir John Gilbert, Knighte, deputy Vice Admirall of the county of Devon, the Maior of Plimouth for the time beinge, and to all other Justices of peace, Maiors, Sheriffs, Baylives,

¹ This is printed in 'Selden Society Series,' vol. ii, p. 44.

Constables, customers, comptrollers, searchers, and all other her Majestie's officers and ministers, aswell within liberties and franchises as without, and to every of them, Greetinge. Whereas sondry abuses and disorders have heretofore byn comitted by Captaines and masters of shipps, and others, bringinge goodes from sea with comission of reprisall, and disposinge thereof uppon their present arrivall without further order taken, or triall made, of the same, to be prize: Whereby not only her Majestie, and the right honorable the Lords and others of her highnes' privye Councell, have byn diversly disquieted with grevous complaints, but also sondry her Majestie's good subjectes drawn unto question and trowble in buyeing and receaving such goodes soe taken; For avoidinge and redresse whereof, yt was by her Majestie specially commanded, that noe prizes taken by commission of reprisall, or other authority, and broughte into eany her Majestie's dominions, should be landed or disposed of before information were geven thereof in her Majestie's high courte of the Admiraltie of England, at London, and prooffe made in the same courte that the same did appertaine to the Kinge of Spaine or some of his subjectes. And thereuppon, by direction of their Lordshipps, a clause or proviso is inserted in all commissions graunted out of the said courte of Thadmiraltie to that purpose, and that yt shall not be safe or lawfull, eyther for the takers to sell, or for eany other person to buy, receive, or intermeddle with such goodes, untill such information be given, and profe made, and order directed from the said Courte accordingly as bye the Reprisalls whereunto relation be had may more at lardge appeare: Notwithstandinge, sondry prizes are dayly taken,

and brought into this Realme, and without regard of her Majestie's pleasure, and their Lordships' direction, and commandement, and to the manifeste violatinge and abuse of their said Reprisalls, noe such informacion is geven by many, or prooffe made in the said Courte. Wherefore these are, in her Majestie's name, and by her highnes' auctorithy royall to me in this behaulfe directed, to geve you, and every of you, auctorithy and power, and straightly to chardge and commaund you, to seaze uppon and arrest all such shippes and goodes as are, or hereafter shalbe, taken at sea by eany comissions of reprisall, or other auctorithy, and brought into the portes of Plimouth, Dartmouthe, or eany other porte, haven, or creeke of the County of Devon; and safely to keepe them under arreste, without breakinge bulcke, diminishinge, or disposinge eany parte of the same, untill informacion be geven thereof in her Majestie's said high courte of thadmiraltie, and proff made, eyther by the oathes of the Spaniards or Portingales, or lettres and writinges found in the shippes taken, that such goodes doe belonge to the Kinge of Spaine or his subjectes, as the commissions of reprisalls doe importe; excepte by reason of leake or other apparant daungers yt shalbe thoughte nedefull to lande and celler such goodes, for the more savetye of them; In which extremities yt shalbe lawfull to unlade the said goodes and house them by inventory, from tyme to tyme, soe as they be safely kepte, without ymbercelinge or spoile, untill such prooffe as ys aforesaid be made, and order geven for the disposinge thereof accordinglye. Wherein I require you have an especiall and due regard that the contentes hereof be duly executed, as you and every of you doe tender her Majestie's

good pleasure, and will answere for doinge the contrary at your uttermost perills. Yeoven at London in her Majestie's high courte of the Admiralty, under the greate seale thereof, the vijth day of October, in the yeare of our Lord God 1590, and in the xxxijth yeare of the raigne of our Soveraigne Lady Elizabethe.

1590. Letter from Howard to Caesar as to securing the French King's dues on Leaguer prizes.—*Adm. Court, Exemplifications* 27, No. 133.¹

Mr. Caesar, whereas sondrie men of warr, having commissione againste Leaguers and their goodes from the frenche Ambassador, have caried suche prises as they have by virtue thereof taken into Irland and other remote places, where the saied ambassador had noe deputies resident to receive the Kinge's dewties oute of them, of purpose therby to defrawde the kinge of that righte which is dewe unto him ;] Therefore I praie you cause commissione to be made unto all officers of the Admiralty, and others whom you shall thinke good, to call all such captaines in question, and to compell them to make satisfactione unto the saied Ambassador of the saied dewties, wherof they wold have soe defrawd the French kinge ; And further that they cause hereafter to be taken oute of eiche Frenche prise as shall by virtue of his commissione be taken and brought into anie of her Majestie's dominiones the full dewtie unto the kinge. And lastly, because I understand that divers goe oute withoute commissione, that they staie all such prises as

¹ Cf. *Ibid.* No. 196, another letter on the same subject.

shalbe broughte in by anie such persones, and see them wholly kepte and preserved under areste, untill they receave order from me what shall therin be don. And soe I bid you hartelye farewell. From the courte at Winsor the 24 of September 1590.

Your loveinge freind,

C. HOWARD.

Postscript. The Kinge's parte in eiche prise is the fifthe oute of the ship and goodes.

1590. Recognisance by Richard Ireland, master of the Mayflower, to join and keep company with the fleet of wine ships sailing from Rochelle and Bordeaux.¹—*Adm. Court, Letters of Marque Bonds, 2.*

The condicion of this obligacion ys such, That where there ys bound furth from the River of Thames and porte of London sondry shippes to Rochell and Burdeaux, and that by her Highnes' straighthe commandement yt ys ordered and appointed, for the better tuition, savegard, defence, and preservation of them from invasion, spoile, and hurte, of the governor of Newhavon, and other ennimydes to this state, that they shall joyne, saile, and kepe company, wholye togeather, as a consorte flete and navy of shippes, without severinge themselves, untill they come to their appointed porte, and in like sorte returne againe togeather, withoute breakinge company, untill

¹ The recognisance, dated 30 September 1590, whereby Ireland acknowledges himself to be indebted to the Lord High Admiral in £100, is in the same form as before.

theire cumminge uppon the quoaste of England, under the conduction of an Admirall, Vice-admirall, and Rereadmirall, appointed by the merchantes amongst themselves for that purpose ; Yf therefore the abovebound Richard Ireland, master of the said shipp called the May Flower of London, beinge one of the said flete, doe adjoyne himselfe and keepe companye with the said flete outwardes and homewardes, and followe, observe, and kepe such orders as the marchantes, Vice-admirall, or Rereadmirall shall sett downe as to the more savety and better finishinge of the said viadge, That then this obligation to be voide and of noe force, or else to remaine in full power and vertue.

By me RICHARD IRELAND.

Signat' sigillat' et deliberat' in presentiiis
Jo Pulsford, Jo. Smythe.

1590. Order of Elizabeth allowing the Dutch to trade with Spain, but only under stringent conditions.—*Cotton MSS. Galba D. vii, f. 144.*²

The subjects and inhabitants of the United Provinces having heretofore, and notwithstanding

¹ The Articles of 1576 printed above, p. 205, were used for this consortship ; there were some thirty ships, and as many bonds. There is a letter from Howard to Caesar directing him to take these bonds ; *Adm. Ct. Exempl. 27, No. 131.*

² A contemporary copy. Leicester had tried to stop the Dutch trade with the South of France and Spain, *Cott. Galba D. vii, f. 47* ; and the Dutch, to stop all trade with the Netherlands, capturing English and other ships engaged in it ; *Add. MSS. 11405, f. 277* ; *ibid.* 29302, f. 3 ; *Adm. Ct. Libels 54, No. 256.*

the open war raging between them and the King of Spain, persisted in continuing their traffic and commerce with Spain, Portugal, and other his countries and lordships in the West, and having in this way furnished him with provisions, munitions, shipping materials, and other things necessary for war, to the injury of her Majesty and of her realm, which the said King of Spain, to avenge himself for the succour and aid that her said Majesty is rendering to the said Provinces, desires to invade ; and whereas her Majesty has since of late endeavoured to stop their said traffic, whereupon complaint was made by the said subjects and inhabitants [of the United Provinces], and her Majesty fully desiring to give ear to and satisfy such complaint, wills and intends that they be permitted to continue their traffic and commerce, [so that it be] subject to the following conditions, safeguards, and limitations :

They¹ shall not carry or cause to be carried, directly or indirectly, to the countries of Spain, Portugal, the Azores, or other places and ports neighbouring or adjacent to Spain, any kind of provisions, munitions of war, powder, artillery, arms, sails, cables, anchors, cordage, masts, peas, or other provisions for land war, or apparel or furniture for ships, (except only what shall be necessary for their own ships' use), upon pain of confiscation of the said ships, munitions, and other provisions.

No ships under 100 tons, and only ten ships of 300 tons burden shall be allowed to go to Spain, Portugal, the Azores &c. in the way of trade, under like pain of confiscation.

¹ i.e. the subjects &c. ; redundant words being omitted.

The ships having permission to go to the said countries shall not, on each occasion, exceed 40 in number, and no more shall be permitted to make the voyage out or home, under like penalty.

And to prevent fraud in the matter, it is ordained that the owner, master, or other having the chief charge in each ship, shall make oath not to receive on board any kind of provisions, munitions, or other stores prohibited as aforesaid ; and the masters of convoys and other officers in ports and harbours shall also make oath not to permit any goods of the kind aforesaid to be loaded or carried in the said ships.

All ships having permission to sail as aforesaid shall first come to anchor in one of four ports to be [hereafter] named, to be there visited, to determine, as well the burden and size of the ship, as also the nature of the goods and merchandise carried ; so that if the ships themselves, and the goods on board, are only such as are necessary for their own protection, a passport, signed and sealed by officers, to be stationed at the port or harbour where they are visited, shall be given to the owner, master, or other having charge of the ship, to serve as a warrant and safeconduct to the Admiral, or Vice Admiral, or other of her Majesty's commanders at sea, who, on the strength of it, shall permit her to come and go without any stay or hindrance whatsoever.

And for the better prevention of all fraud and unpleasantness that might occur in respect of the visitation ¹ of the said ships and merchandise,

¹ In 1599 the French raised strong protests against Elizabeth's claim to the right of search ; see *Winwood* i, pp. 19, 389 *seq.*, *Lansd. MSS.* 149, f. 416.

there shall be stationed at each of the ports on behalf of her Majesty an officer, who in the execution of this duty shall associate himself with the ordinary officers of the said ports and harbours, to which officer so appointed on behalf of her Majesty there shall be assigned a competent salary, to be charged upon revenues of the convoys and [proceeds of] licences granted by the United Provinces, or otherwise upon some tax or charge to be laid upon the said ships and merchandise in respect of which the passports are given.

W. BURGHLEY.

Les sujets et habitans des Provinces Unies, ayans par devant, et non obstant' la guerre ouverte entre eux et le Roy d'Espaine, tousjours continue leur traffic et commerce avec l'Espaine, Portugal, et autres ses pais et Seigneuries occidentales, l'ayant par ce moyen accommodé de vivres, municions, equippages de navires, et autres choses necessaires à la guerre, au prejudice de sa Majesté et de son estat, lequel le dit Roy d'Espaine a voulu envahir, pour se venger du secoures et aydes que sa dite Majesté preste au ditz Provinces, et que sa Majesté a depuis nagueres essaye d'empescher leur dit traffic sur quoy plaintes luy auront esté faites par ses ditz sujets et habitans, auxquels ayant sa Majesté bonne volonté de donner contentement et satisfaction, veut, et entend, que leur soit permis de continuer leur traffic et commerce sous les conditions, cautions, et limitations, qui s'ensuivent.

Savoir que les sujets et habitans ne porteront, ou feront porter, directement ou indirectement, aux paies de l'Espaine, Portugal, Isles d'Azores, ou a autres lieux et portes voisins et confins de l'Espaigne, aucunes especes de vivres, municions de guerre, poudres, artelleries, armes, voiles, cables, ancres, cordages, mastes, poix, ou autres provisions de guerre par terre, appareil et equippage pour la marine, (hors mis ce que sera

nécessaire pour leurs propres navires), souz peine de confiscation des ditz navires, munitions et autres provisions.

Nules navires au dessus de 100 tuneaux, et que 10 seulement de 300 tonneaux, pourront passer en Spaine, Portugal, lez Isles etc. pour trafic de marchandise soubz mesme peine de confiscation.

Que les navires qui auront permission de passer aux ditz paies ne pourront excéder a chascune fois le nombre de quarante, et que aucunes autres n'aurent congé de faire le voyage susdit que le premier nombre ne soit de retour souz semblable peyne.

Et pour evitre aux fraudes en ce cas, est ordonne que le propriétaire, maistre, ou autre ayant principale charge en chasque navire, fera serment de ne recevoir au dit navire aucunes des especes de vivres, munitions, et autres provisions si dessus prohibées, et que les maistres des convoys, et autres officiers des portes et havres, feront aussi serment de ne souffrir aucunes desditz espèces estre portées et chargées aux ditz navires.

Toutz navires, qui auront [permission] a passer comme dessus, viendront premierement mouiller l'encre en l'un des 4 portz anommes, pour y estre visités, tant pour le port et grandeur du navire, que pour la nature des biens et marchandises a transporter, afin que si les navires et biens ne sont de ceux qui sont portéz pour la defence, passeport signé et selé par lez officiers, qui seront establiz en le port et havre ou ilz auront esté visitéz, soit donné au propriétaire, maistre, ou autre ayant charge au dit navire, lequel leur servira de guarant et saufconduit à l'Admiral ou Vice-Admiral, ou autre commandant en mer pour sa Majesté, qui leur permettront en vertue du dit passeport d'aller et venir sans empechement ou destourber quelconque.

Et pour mieux obvier a tutes fraudes et nonchalances, qui se pourront commettre en la visite des ditz navires et marchandises, il sera commis en chacun des portes de la part de sa Majesté un officier qui en l'exécution de ceste charge se joyndra avec les officiers ordinaires des ditz portes et havres, auquel officier, ainsi establi pour

sa Majesté, seront ordonnez gages competentz a prendre sur le revenues des convoyes et licences de Provinces Unies, ou bien sur quelque taxe et imposition a mettre sur les ditz navires et marchandises, au regard desquels les passeports seront donnez.

W. BURGHLEY.

1591. Sentence¹ condemning a French Leaguer prize captured by Englishmen under letters of marque from the French King confirmed by the Lord High Admiral of England.—*Adm. Court, Libels* 58, No. 156.

. . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare, that the ship mentioned in the allegation, called the Moon, of the port of St. Malo, and her apparel and furniture, and also one half of all the Spanish wines, iron, alum, rice, and other goods in her at the time of her capture by the said ship called the Hartsease, and [*since*] brought to Plymouth, notoriously appertained and belonged, in point of ownership or quasi-ownership, to John le Duke and Christopher Besnarde, inhabitants of the town of St. Malo, enemies of the King of the French and of the queen of England, Leaguers against the king of France, and was loaded and

¹ This sentence was assented to by De la Fin, the French ambassador, whose certificate is *Adm. Court, Libels* 58, No. 155; a similar certificate is printed below, p. 282. The reason that, in this case, one half only of the cargo was condemned, is that the other half belonged to one Francq, a subject of the Queen of England; et pour le regard de la punition que merite le dict Gregorie Francq pour traffiquer avec les ditz rebelles—De la Fin leaves the Queen to deal with that.

The operative part, only, of the sentence is given here and afterwards; for the full form of sentence, see above, p. 254.

consigned in Spain for their benefit, use, and account; Moreover, we pronounce, decree, and declare, that the said John le Duke and Christopher Besnarde were and are rebels, traitors, and adversaries to the King of the French (in English, Leaguers and rebelles against the King of France); [And] we also pronounce, decree, and declare, that the aforesaid Nicholas White and his companions, empowered thereto by sufficient authority, and under and by virtue of a commission from the lord ambassador appointed by the French king, [which authority was] ratified and confirmed by the Lord High Admiral of England, and was addressed and granted to them in that behalf, in the months mentioned in the allegation, or in some or one of them, captured on the high sea the said ship of St. Malo called the Moon, together with the aforesaid goods laden in her, and brought her into their own hands and power; And that, by reason of the premises, the aforesaid ship called the Moon of St. Malo, and her apparel, furniture, and gear, and also one half part of all wines, iron, alum, rice, and other goods so as aforesaid captured and subdued by the said Nicholas White and his companions, are lawful prize and reprisals; And by this our definitive sentence, or this our final decree, which we pass and promulgate by these presents, we also adjudge the same ship, together with her apparel, and one half of the aforesaid goods, to be goods lawfully captured, and lawful prize of the said captors, and that the same ought to be delivered to them.

JULIUS CAESAR.

. . . Idcirco Nos Julius Caesar . . . navem allegatam vocatam the Mone, portus Maclonensis, ejusque apparatus

et ornamenta, necnon unam medietatem omnium vinorum Hispaniorum, ferri, aluminis, orize, ac aliorum bonorum quorumcunque in eadem tempore capture per dictam naviculam vocatam the Hartsease existentium, et Plimutham adductorum, ad Johannem le Duke et Christopherum Besnarde oppidi de Maclonens' inhabitantes, jure domini seu quasi, Regis Francorum et regine Anglie inimicos, Anglice Legars to the King of France, notorie pertinuisse et spectasse, ac in rem, usum, et computum proprium, eorundem oneratam et consignatam in partibus Hispanie fuisse et esse; Necnon dictos Johannem le Duke et Christopherum Besnarde fuisse et esse rebelles, defectores, et resultatores, contra Regem Francorum, Anglice Legars et Rebelles to the Kinge of France, pronunciamus, decernimus, et declaramus; [Necnon] memoratum Nicholaum White et socios auctoritate sufficienti ad infrascripta fulcitos, ac vigore et virtute commissionis a domino legato Francie per ipsum Gallicum regem authorize, et per dominum magnum Admirallum Anglie ratificate et confirmate, eisque in ea parte directe et concesse, mensibus allegatis, uno vel aliquo, dictam navem Maclonensem vocatam the Mone, cum bonis predictis in eadem oneratis, super alto mari cepisse, et in manus et potestatem suas redigisse, etiam pronunciamus, decernimus, et declaramus; Ac ratione premissorum memoratam navem appellatam the Mone de St. Malloves, et ejus apparatus et ornamenta et accessiones, necnon unam mediam partem omnium vinorum, ferri, aluminis, orize, et aliorum bonorum quorumcunque ut prefertur per dictum Nicholaum White et socios captorum et subjectorum, legitimas esse predas et reprisalias; Eandemque navem, cum apparatibus, ac medietatem bonorum predictorum, tanquam bona legitime capta, et pro preda legitima dictorum capientium, et eisdem tradenda fore debere, etiam adjudicamus per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

JULIUS CAESAR.¹

¹ Caesar's father, Cesare Adelmare, was an Italian who settled in England, and became physician to the court.

1591. Commission of reprisals to George Reyman from the Queen.¹—*Patent Rolls*, No. 1606, *Watson's Roll*, m. 7 d.

Elizabeth, by the grace of God &c., To all and singuler our officers, ministers, and subjects, of what state condition or degree soever they be, to whome theis our letters shall come to be seene or harde, Greetinge. Know ye that wee, for dyverse good causes and considerations, and especiallie for and in consideration of a venturous and commodious intent and platt of a voyage to us sett downe before the grauntinge hereof, tendinge to the service of us and our realme by the annoyinge and offendinge of the enemyes of our state, have licensed, and by theis presents do licence, our well beloved subjecte, George Reyman, gentleman, and suche other persons as shall joyne with hym in this good purpose and action; And for the better meanes to performe the same, to use in his saide voyage and enterprise theis shippes here named, the barke Reyman of Portesmouth, the Royall Marchante

The son took the name of Caesar as a surname. With his contemporaries he had not the reputation of being a great lawyer, but under his presidency the Court of Admiralty flourished exceedingly, and rose to an importance that it never afterwards enjoyed until the days of Lord Stowell. He was judge from 1584 to 1605, and after leaving the Court he became Master of the Rolls and Chancellor of the Exchequer. If not a great lawyer, he was a man of great industry and ability, and his foreign extraction probably fitted him for his position as judge of the Admiralty.

¹ An unusual form. Letters of reprisal were usually issued by the Lord Admiral under an authority from the Queen. Reyman appears to have had letters of reprisal from the Admiral in 1586. See a first decree in his favour against Spanish prize, *Selden Series, Admiralty Court*, ii, 161.

of London, and the Edward Bonaventure of the same cittie, and one smalle pinnace ; and the saide shippes and pinnace to tackle, victuall, furnishe, sett out, and make readie in warlike sorte and manner ; And that he shall and maye likewise ymploye and use the service of suche numbers of marriners, souldyers, and other persons, as hee shall thinke meete and convenyent ; And with the saide shippes, marryners, and souldyers, to proceade in his intended voyage without any trouble, molestation, or staye, either of man, shippes, munition, or victualls, any order commission or restraints to the contrarie notwithstandinge ; And further Wee do hereby authorice the saide George Reyman, and the persons assistinge and joyninge with hym in this voyage, to take by violence, or any other wayes, all suche shippes and vessells as shall belonge unto the Kynge of Spayne, or to any his subjects, that shall come or go to any place or places, with all suche goods or treasure as shalbe in them, makinge accompte for the same or the valewe thereof, as in case of reprisalls oughte to be. Wee doe also charge and commaunde the said George Reyman that nether he, nor anye under his rule, shall use anye violence to any of the subjects by sea or lande of any suche as are in amitie with us ; And lastlie, Wee doe heareby geve power and auctoritie unto the above saide George Reyman to commaunde over all the abovesaid shippes and pynnace, and over all the persons servinge in them, and that he also shall appoint and make suche good orders and constitutions as hee shall thinke meete and conveniente for the better performinge of his good enterprise, and for the better governinge and keepinge in obeydience of all the persons

serving as aforesaide, and to laye suche punishmente upon them, or any of them, offendinge contrarie to suche orders as the qualitie of the offence shall require, deathe or losse of member onlie excepted. In Witness whereof &c. Teste Regina apud Westmonasterium vicesimo secundo die Martii anno regni sui tricesimo tertio.

1591. Consortship agreement entered into by Lord Thomas Howard and John Watts.—*Adm. Court, Interrogatories* 4.¹

Theise presents are to witnes that, whereas I, Lord Thomas Howard, am presently bound to sea with divers of her Majestie's shippes against, and to apprehend, any shippes whatsoever of the Kinge of Spayne's or his subjects; and finding fowre shippes (to say) the Harry and John, the Centaure, the John, the Pegassus, and a small pynnes belonging to Mr. John Watts and companie of London, merchaunts, att Plymoth, provided and furnished for a voyadge by theym undertaken, I have thought good to take the sayed fowre shippes and pynnes into my companie, and commaund the captaines of them that the sayed shippes shall waite and attend uppon me to the coaste of Spayne and the South Cape. And allso I doe by theyse presents promise that the sayed shippes and pynnes, with their victualls, captaines, maesters, and companyes, shall have

¹ This agreement was produced in a suit by Howard against Watts, in which the former claimed to share in a prize captured by Watts' Centaure. The agreement was repudiated by Howard, who alleged that the Centaure deserted him. Sentence was given for Watts. See *Adm. Court, Libels* 59, No. 162; *Ibid. Libels* 63, No. 241.

their equall parts and parte of all such prise and pryse that shall be taken by me or any my fleete in syght ; And I, the sayed Lord Howard, am to have my part of all such pryse and pryse that the sayed shippes and frygote shall take in my syght ; And when the sayed shippes are out of syght, then I, the sayed Lord Howard, am to have no part with them, neither they with me ; And this consort to hould man for man, and after the number of the men to rate the victualls (?) and toonadge. And I do promise hereby not to detaine the sayed shippes or pynnes any tyme to the overthrowe or hynderaunce of their pretended voyadge, but onely to the coaste of Spayne and the South Cape, and onely this whole moneth of Aprill now present, and not any longer tyme. In wytnes wherof I, the sayed Lord Howard, have hereunto set my seigne and seale. Dated the third day of Aprill 1591.

Allso I, the above named Lord Howard, am content that this consort shall stand in full force, as well for goods or any other thing taken by land as by seay.

1591. Letters of marque authorising George Barnstra, having also a commission from the King of France, to capture Leaguer prizes and to bring them to England.—*Adm. Court, Exemplifications* 28, No. 217.¹

Charles . . . [Lord Howard of Effingham, setting out his titles]. . . . Whereas there is a commission graunted to George Barnstra and

¹ The Admiral's licence was required : *Adm. Ct. Exempl.* 32, No. 83

his consortes from the French Kinge against his rebells, the Leagers, and others their favorers and abettors, to sett forth to the seas such number of shipps as they can furnishe with men, victualls, munition, and other thinges necessary for that purpose, and to take and apprehend, by waye of hostility, them, their shipps, merchandizes, and goodes, and also against all persons that shall assist such Leagers, townes, and others houldinge on their part, with victualls, munition, merchandizes, or other thinges, or in any wise or manner shall trafficke with them, or into Spaine, unles it be by permission and special license of the said Kinge, her excellent Majestie, the States of Holland, their lieftenants, or of John de la Fin, lord of Beauvoir, and ambassador here for his Majestie, or of myself; Chardging the said George Barnstra and his consortes that without delaye they bringe all suche prizes as they shall soe take to the portes and havons of the Isle of Wight, Portsmouth, and Falmoth, together with the marchant and master of every shippe soe taken, and three or fower of the principallest persons which shalbe found in every vessell, and besides all the charterparties, papers, letters, remembraunces, and evidencies which they shall finde in the sayd shipps; And doe not break bulke, waste, spoyle, sell, alienate, or imbeasell awaye, any such shipps, goods, or merchandizes, soe taken, uppon payne of fower thowsand poundes sterlinge, and losse of their right in such shipps, goods, and merchandizes, as they shall soe take, untill they shalbe allowed by the said ambassador, or his deputy, to bee a lawfull prize, and soe certified to the judge of the high court of Admiralty that he may proceede to give

judgment accordinglye.¹ Knowe ye therefore that I, the sayd Charles Lord Howard, lord high Admirall aforesayd, by vertue of Her Majestie's sayd letters pattentes to mee directed, doe license and aucthorize the sayd George Barnstra and consortes to sett forth to the seas such number of shippes so furnished and munited as aforesayd, and therewith to sett uppon by force of armes and to take and apprehend any of the shippes, goods, and merchandizes of the Leagers, rebels, and others whatsoever that shall ayde or assist them, unles it be by the permission and speciall license of the sayd French Kinge, her Majestie, the States of Holland, their lieutenants, or of John de la Fin, Lord of Beauvoir, and ambassador for his Majestie here in England, or of myself; And the sayd shippes, goods, and merchandizes soe taken and brought into the portes of the Isle of Wight, Portsmouth, or Falmoth, and an inventory thereof taken, appraysement made, and judgment gyven in the highe courte of Thadmiraltie for the approbation of the same to be a good and lawfull prize in manner and forme aforesayd, then the sayd shippes, goods, and merchandizes, to kepe and retayne in his or their possession, and to make sale and dispose thereof accordinge to the teanor of his sayd commission from the sayd Kinge. We straightly chardge and command all and singular Vice Admiralls, Justices of Peace, Maiors, Sheriffs, Bayliffs, Constables, Customers, Comptrowlers, Searchers, Captaines, and masters both of her Majestie's shippes and other shippinge whatsoever, and especially the keepers of the havons of the

¹ The words from 'allowed' to here are inserted by Caesar in the place of words requiring adjudication, inventory, and appraisement.

Isle of Wight, Portsmouth, and Falmoth, quietly to permitt and suffer the sayd George Barnstra and his consorts, with such number of shipps as he and they shall have, to passe by you and every of you without any molestation or trouble to be done to them or any of them, but to ayde, helpe, and assist them as occasion serveth, they demeaninge themselves well and dutifully towardes her Majestie and her people, as you and every of you will answere the contrary at your perills. This commission to enduer and be in force for the space of six monethes from the day of the date hereof. In witnes whereof I have caused the greate seale of my office to be affixed.

Yeoven at London in her Majestie's High Court of Admiraltie the viijth of Maye 1591, and in the xxxiiijrd yere of the raigne of our soveraigne lady Queene Elizabeth, by the grace of God Queene of England, France, and Ireland, Defender of the Faith.

1592. A true relation of the fight had by the right honorable the Erle of Cumberland and his companie, being in a ship of her Majestie's called the Guardland, and the Black Bull of Hamboroughe, and the takinge thereof.—*Admiralty Court, Exemplifications* 29, No. 59.

About the beginning of Julie last, lyinge of the Rock,¹ uppon the coast of Portugall, we descried in the morninge a ship, (since knowen by name of the Black Bull), too or three leagues right to wyndward, and comminge before the

¹ Of Lisbon.

wynde ; but when they had perceived what I was, they hayled their tackes aboard, and shoucke all in the wynde, untill they were, as it seemed, thoroughly provided, and had made ready their fightes, and put out their flagge, and then presently came roome. Wheir uppon I sent my pinnis, beinge better of sayle then myself, to speak with them. But when he haled, and asked of where they were, they bad him looke on their flagge, (which was of Turkey). Then tellinge them he was sent by me, beinge in a shippe of her Majestie's, and that I willed them to strike to the Queen's ship, or strike in the name of the Queene of England, (or to the like effect), and come on board me, they skornfully denyed, utteringe suche unseemlie and unreverent speeches as I will not rehearse, styll keepinge their course tyll they came under my lee. So I presently shotte at them, and they streight gave me their whole brode syde. Wheir uppon we verilie believed they had bin owne of the King's men of warre, for they contynued a verie hote fight for a longe while, untill the master and some of the companie were slayne, the ship much beaten, havinge receyved sundry great shotte from my companie, and twice shotte under water, their company distressed, neither appearinge ; when they strooke sayles and yelded any possible meanes to escape us. In testimony whei of I have heir unto put my hand and seale the 17th day of Januarie, anno Domini 1591, and the yeare of the raigne of our most gracious soveraigne, Queene Elizabeth, the foore and thirteenth, etc.

GEORGE CUMBRELAND.

1592. Commission to the Earl of Cumberland to capture Spaniards, with authority to divide the spoil. — *Patent Rolls*, 34 *Eliz.* pt. 8, m. 1d.¹

Elizabeth by the grace of God &c, To all and singuler our officers, ministers, and subjects, of what state or condition soever they be, to whom these presents shall come, Greetinge. Whereas, upon intelligence given unto us by our right trusty and right well beloved cosyn, George Earle of Comberland, that there maye be good service don to us and our realme in the course which by our imployment he is now to undertake and performe, by God's good permission, with certen warlike shippes sett out unto the seas by himself and his procurement ; whereof we have good likinge, and doe allowe of the same, and of his actions therein ; And therefore, forasmuch as, for the better performaunce of this his honorable purpose, he shall have cause to use the assistance and service of such our lovinge subjects as wilbe willinge thereunto, We will and straightlye commaunde all and every of them, whose companye, assistance, or service, our said cosyn maye thus use, to yelde all dutyefull obedience and reverence due unto him, and to his officers aucthorized by him in this his said enterprise and voyadge, and to carry them selves also, eache to other, in all good order and quietnes, for avoydinge of any occasion that might breede quarrel dissention, or

¹ *Pat.* 37 *Eliz.* pt. 17, m. 35d, is Cumberland's commission to command the *Malice Scourge* and other ships against the King of Spain, empowering him to invade and destroy his forces 'as well uppon the sea as uppon the continent or any island,' and to divide his spoil and prizes amongst his followers.

discorde, amongst them, to the hinderance of the service and good successe that is to be hoped for, throughe God's favor, of this his intended voyadge ; hereof we chardge all and everye of our said subjects, upon payne of such punishment to be inflicted upon them, and every of them, offendinge contrarye to the tenor hereof, as our said cosen shall see cause, accordinge to the qualite of the offence, and to use martiall lawe in causes needefull and requisite, where the punishment maye not be delayed without perill. And forasmuch as such of our lovinge subjects as shall assiste and be ymployed in this foresaid voiadge, and some others that may beare adventure with our said cosen, are to have consideration and benefitt for their service, assistance, and adventure, We are pleased, and hereby declare, that we doe and will allowe and avowe such distributions of shares of goods and prises whatsoever that shalbe taken by our said cosen, and those that shall assiste and serve under him in this voiadge, from the subjects of any prince or potentate that is not at this present in league and amitie with us ; The same goods and prises to be holden and enjoyed by our said cosen and others, our abovenamed subjects, without any account to be made for the same, or any parte thereof, to us, our heires or successors. And, for the better performance of this service, we licence our said cosen to anoye the Kinge of Spayne and his subjects, and to burne, kill, and slaye, as just and needefull cause shall require. And leste that any offence should be given to any of our good frendes duringe this service by our said cosyn, or any other under his chardge and government, We doe hereby chardge and commaunde him, our said cosyn, that neither he,

nor any under his rule, shall use any violence, or take any thinge from any of the subjects by sea or by land of any such as are in amytye with us. Lastlye, for the better furtheringe of the said service, we doe chardge and commaund all our officers, ministers, and subjects, whatsoever to be aydinge, assistinge, and furtheringe unto our said cosen of Comberland, as well by sea as lande, in any thinge that he shall reasonablye requier and stande in neede of, for the furtheraunce of this service, at prices reasonable ; and thereof not to fayle, as they will answere for the contrarie at their uttermost perills ; And these our letters shalbe, as well to our said cosen, as unto every of our said subjects in this behalf sufficient warrant and dischardge. In witness Our selfe, at our pallace of Westminster, the one and twentieth day of Februarye, in the foure and thirtieth yere of our raigne.

1592. Order as to the distribution of jewels brought in by the Bark Bonde ; the pearls to be kept for the Queen.—*Adm. Court, Exemplifications* 29, No. 103.¹

Whereas there was sent up by order from us certaine diamondes, rubie, and pearle, with ten ringes with severall stones in them, from the port of Weymouth, which were taken, from the captaine of the carricke, contrary to her Majestie's generall pasporte ; for which contempt the owner and companie deserved, not only punishment, but even the losse of that which were taken, yf her Majestie of her gracious consideracion,

¹ A copy. *Ibid.* No. 88 is a commission to deliver the jewels. They were from the Madre de Dios, see *Hatfield MSS.* iv, 237.

(and the rather at our sute), had not bin contented to consider the former losses and number of the shares to whome the prize belongeth. Theise are to witnes, for your dischargd to the whole companie, that her Majestie hath bin contented wee should lett them be releved with the rubie ringes and diamondes ; but for the pearle her Heighnes' pleasure was, they should be detayned. In witnes whereof wee have hereunto put our handes, hoping that all other will by this take warninge howe to make the like contempt. At Hampton Courte the xijth of November 1592.

Ro. CECILL.

C. Howard.

Memorandum, that there were seven peces of a gould brasselett, which is likewise to be delivered to the companie.

Whereas theise thinges above mentioned were praised but at eight hundreth and od powndes, We have taken order that the Quene's custome shalbe paied after the rate of a thowsande powndes, notwithstanding her Majestie hath deductid the pearle ; which custome amonteth to fifty powndes, and is to be payed by John Bonde.

Ro. CECILL.

1593. Letter from Howard to Caesar directing him to condemn a Spanish prize to the captor, although she was not captured under letters of marque.—*Adm. Court, Libels* 61, No. 72.

Mr. Caesar, One captaine Berie, having order from Sir Francis Drake to goe on the coaste of Spaine for discoverie of the enemye's enterprises and forces prepared there, which was don with

my privity and allowance, happened to take a brasill prize at the sea, and to bring her into Plymouthe. And having sent [her] up for adjudication in the Admiraltie Courte, I have thoughte good to let you knowe the premises, and to require you that the want of a commissione may be noe let unto the same. And soe fare you hartelye well. From the courte at Winsor the 27 of November 1593.

Your lovinge freind,
HOWARD.

Judge Caesar.

1593. Consent by the French ambassador to the condemnation by the judge of the Admiralty of a French prize captured by Englishmen.—*Adm. Court, Exemplifications* 30, No. 56.¹

We, Jean de la Fin, Seigneur de Beauvoir la Nocle, Councillor of the most Christian King, in his Council of State, captain of fifty men at arms at his disposition, and ambassador to the most serene queen of England, certify to all concerned, that having ascertained, as well by examining several sailors, as also by certain writings shewing that the ship called the Trinity of Morbihan, of the burden of 60 tons, or thereabouts, was loaded with wheat at Morbihan aforesaid to be discharged in Portugal, the enemy's country, against the express commands of his most Christian Majesty, and was captured on her way by certain

¹ There is a similar consent by De la Fin to the condemnation of La Lune in *Ad. Ct. Libels* 58, No. 155. *Ibid. Libels* 57, No. 11, is a sentence condemning a Leaguer prize; it is printed in *Selden Soc.* xi, 170.

English ships, one named the White Lion, whose captain was Edmond Doged, and the other the Trial, whose captain was George Watson ; for these reasons, and by virtue of a power given to us by his most Christian Majesty aforesaid, we have consented, and do consent that the said ship and merchandise be adjudged by the judge of the High Court of Admiralty to be good prize, for the benefit of, as well the aforesaid captains, as their consorts and victuallers, to the end and upon condition that the said captains, or victuallers, and others having interest therein, do bind themselves jointly and severally to pay as well the fifth part, which is the King's due, as all other duties that can be justly claimed ; And this obligation shall remain in the hands of the said judge. In witness whereof we have caused the seal of our arms to be affixed to these presents signed by our hand at London this 14th of December 1593.

JEAN DE LA FIN.

Nous Jean de la Fin, Sieur de Beauvoir La Nocle, Conseiller du Roy tres-chrestien en son conseil destat, capitayne de cinquante hommes d'armes de ses ordonnances, et son ambassadeur pres la Serenissime reyne d'Angleterre, certifions a tous qu'il appartiendra, que ayant veu tant par l'examen de plusieurs matelots, que aussi par certains briefs monstrant que le navire nomme la Trinite de Morbihen, du port de soixante thonnes ou environ, auroit este chargee de blede audit Morbihen pour aller descharg' en Portugal, paye de l'ennemy, contre les commandemens expres de sa Majeste tres-chrestienne, et auroit este prise en chemin par certains navires Anglois, l'un nomme le Lion Blanc, dont est capitaine Edmond Doged, et l'autre le Triall, dont est capitaine George Watson ; a ces causes, et en vertue du pouvoir a nous donne par saditte Majeste tres-chres-

tienne, Nous avons consenty, et consentons, que ledit navire et marchandise soit adjuge de bonne prise, tant au proffit des susdits capitaynes que de leurs consors et avictualleurs, par le juge de la souveraine (?) Court de L'admiraulte, aux fins et conditions que les dits capitaynes, ou avictuailleurs, et autres y ayant interest, sobligeont ensemble et un seul pour le tout, tant den payer le cinquieme, qui est pour le droit du Roy, que aussi de tous autres interests qui pouroyent estre repetes par voye de justice ; laquelle obligacion demeurera en maines dudit juge. En tesmoing de quoy aux presentes, signees de nostre main, nous avons faict apposer le cachet de nos armes a Londres ce 14^e Decembre 1593.

JEAN DE LA FIN.

1595. Commission to Sir John Hawkins and Sir Francis Drake against the Spaniards.—*Patent Rolls*, 37 *Eliz.* pt. 14, m. 18.¹

Elizabeth by the grace of God &c. To our trustye and well beloved Sir John Hawkyens and Sir Francis Drake, Knightes, greeting. Forasmuch as, lookinge into, and deeplie consideringe, the hostile attemptes dailye practised againste this our realme and person, altogether without juste cause gyven by us, We are justlye moved to enter into the consideration what urgent and just cause we have to use all the beste meanes we can, where peaceable meanes on our partes have not provided to prevente, impeache, and withstande, such hostile attemptes and all

¹ Compare the commission to Howard in 1588 against Spain, *Pat.* 30 *Eliz.* pt. 17, m. 7d, and those to Buckingham in 1627, Rymer xviii, 892, 901. The commission to Peter Crosse to command the Swiftsure and the Crane and to put himself under Drake's orders is *Pat.* 37 *Eliz.* pt. 17, m. 40d.

preparatyones for the same, for the better defence and protection of us, our realme, and domynions, and of all our lovinge subjectes. We lett you to witt, therefore, that havinge to that ende resolved with bothe of youe, by the advice of our counsell, upon some speciall service to be done for this good purpose, and to withstande suche attempt, whereunto both of you have assented, and knowing your approved fidelitie and wisdom, valor, and circumspection, We have made speciall choice of youe both, and have committed the chardge thereof unto you both, and therefore doe by these presents give you full power and aucthoritye to receyve at the handes of our Admirall sixe of our shippes, named the Garlande, the Defyance, the Bonaventure, the Hope, the Foresighte, and the Aventure, throughlye furnished in warlike manner, together with twelve of our marchaunt shippes, and sondrye pynnaces to attende them. Our will and pleasure therefore is that, by vertue hereof, you, and either of you, by yourselves, or any sufficient deputies, shall have power and aucthoritye to preste and take up in all our domynions, as well within liberties as without, such a fitt number of saylers, shipp carpenters, gonners, souldyers, and other artificers, and seafaringe men, as shall be sufficient to furnishe all the shippes and pynnaces aforesaide for the service intended. Furthermore we doe aucthorise you hereby to take up all manner provision of victualles, and all other furniture and artillery, that shall be needfull for the better accomplishinge of our intent herein, at prices reasonablye to be presentlye payde for contentment of the owner in mete places. And to the ende that our lovinge subjectes servinge in this service under you bothe

maye be better ordered and governed by a due obedience, to be by them yeelded unto you in all service, and in the observinge and executinge of such good orders and constitutions as you shall thinke conveniente to make for the further-aunce of this service to our honor and your owne creditt, We doe hereby straitely chardge and commaunde all persons servinge thus under you to gyve all due obedience and respecte unto you, aauthorisinge you both to laye such punishment upon them as either of youe shall thinke mete, accordinge to the quallitye of the offence. And for the speciall truste and confidence we repose in your vertue, fidelitie, dexteritye, and experience in cases verye requisite and manifestlye nedefull, to use the lawe called marshall lawe, where the delaye otherwise of the execution may brede perill; noethinge doubtinge of your moderations herein, and hopinge in your discrete government that without great and urgent cause ye will not use the same. And for that we have committed the trust of this enterprise to your valour and fidelitie, we do hereby commit the whole chardge of our owne shippes aforesaide, and of our marchaunt shippes and followers, together with their whole furniture, being throwghlye manned, victualled and prepared for you, bothe to leade and directe by your discretion to suche places and countries, as well upon the continent as in the Islandes whatsoever, as by your experience you shall thinke meeteste, to offende our capitall enemye, the Kinge of Spayne, his countries, subjectes and adherents, either on sea or lande. And yf you shall, for the ease of our chardge, take in any persons to disburse any sommes of money to be borne in adventure, We doe by vertue hereof gyve you full power

and aucthoritye to deliver unto them equall portions, in profitte or in losse, at the same rate that we ourselves shall have and receyve for our owne adventure. And for the ten thowsande poundes adventure which we are pleased you shall have with us in this [enterprize],¹ ye shall hereby be fully aucthorized from us to be satisfied for your selves . . . in gayne or losse, as ye doe to us and thother adventurers. And yf ye shall . . . with your companies to goe by the third, We doe hereby confirm, ratify, and . . . the same for us and our heirs and successors, accordinge to your promise in that behalfe. And yf, at any tyme hereafter, yt shall be our pleasure to staye or alter this service, We doe then promise hereby that the whole chardge thereof shall be allowed and borne by us, and noe part or parcell imposed upon either of you. And, further, our will and pleasure is that, whatsoever both or either of you shall doe either on sea or lande by vertue of this our commission, and according to the tenor and effect thereof, touchinge the execution of the premises, or any part thereof, we doe hereby dischargd you and every of you thereof againste us, our heires and successors, in that behalfe. In witness &c. Teste Regina apud Westmonasterium vicesimo nono die Januarii.

1595. The Minion's bond for good behaviour to be put in suit.—*Adm. Court, Exemptions* 31, No. 5.

Mr. Caesar, Whereas the Minion of Bristoll hath committed spoiles at the sea of late, and specially on the good ship named the White Falcon of Dansicke; Theise shalbe to require

¹ The roll has lost its margin.

you to cause the band entered for that ship to be put in sute, that therewith the merchants that fraighted the said Falcon may be satisfied theire damages. And soe fare you well. From the Court at Whitehall the 23 of March 1594.

Your loving freind,

HOWARD.

1595. Warrant for letters of reprisal to Lord Thomas Howard against the French.—*Adm. Court, Exemplifications* 32, No. 155.

Mr. Caesar, Whereas a ship apertayninge to my good Lord, the Lord Thomas Howard, named the Flighte, of the burthen of 60 tonnes, cominge from the Weste Indyces in anno 1593, was stayed by the Leiftenant of the Isle of Re, neare Rochell, uppon an arreste made by a Frenchman, of Olderney¹ de Barges, named Violet, and since cold neather have justice nor restitutione of his saied ship; Wherefore theise are to pray and require you to graunt out commissione unto his Lordship or his assigns to staye anie such ship or goodes of the said Island of Olderney aforesaid as his Lordship, or his assigns, shall at anie time hereafter find within anie of her Majestie's dominions, to the valowe of one thousand poundes, for to that som did his Lordshipp's losses extend; And for the same let this be your warrant. From the Court at Grenwiche, the 8 of June 1595.

Your lovinge freind,

C. HOWARD.

Qy. Oléron.

1595. Letters of marque to be recalled, because the grantee has recovered more than he lost.—*Adm. Court, Exemplifications* 32, No. 134.

Mr. Caesar, herein enclosed I send you a letter which I received from my lord of Ormonde, wherein he prayeth that a letter of marte, which he procured at the requeste of the French ambassador then resident heare, may be revoked, and by a supersedeas annihilated, in regard that Peter Tromley, for whom the saied letter of marte was procured, hath already recovered thereby a greater som than the valewe of his losses. Wherefore I pray you take order therein accordinglie. And soe I bid you farewell. From the court at Greenwich the 11 of Auguste 1595.

Your lovinge freind,

C. HOWARD.

Ormonde's letter *Ibid.* No. 135.

My veray good lord. Where, at my last beinge in England, I was sutor to your lordship, (at the request of my lord imbassador), to graunt a letter of marke to one Peter Tromley, a Frenche man, dwellinge at Waterford; which being graunted unto him, he hathe made stay of sundry Frenchmen, and, as I am enformed, receivid a far greater porcion then the vallu of the goodes lost by him, and yett dothe still troble all Frenchmen cominge to these partes, to her Majesties great hindraunce in her impost, and the great prejudice of the subjectes. Therfore I praye your good lordship to call in the said letter of marke, and to signifie your pleasure therein by this bearer. And so, wishing to your good

lordship as to myself, I committ you to the blessed guiding of God. From Kilkeny, the xvijth of Julii 1595.

Your lordes most loving brother,
THOMAS ORMONDE.

1595. Prisoners captured under letters of reprisal to be kept in custody, so that they do not spy.—*Adm. Ct. Exemplifications* 32, No. 80.

After our hartie commendacions, Whereas we have observed that such strangers as are taken and usually brought into the Realme by reprisall have, for the most parte after their arrivall liberty graunted unto them to walke and goe abroade at their pleasure, by which meanes they, beinge enemyes unto her Majestie and this State, may take their oportunitie, eyther to doe present mischeife within the realme, or to looke and espie maliciouslie into the affaires of the State, and into the places of streinghe and defence or of accesse and arrivall on the coasts, that upon their retorne they may geve informacon of advantage to the enemye. Though this hath bene neglected to longe, and we know not what such persons may have alredy practized against the State ; yet to prevent such daunger as hereafter might ensue, We have thoughte meete by this our letters to will and requier you, that from henceforth what persons soever shalbe soe taken and brought into the Realme, and likewise what persons soever remaine yet in the Realme, of those that heeretofore have bene taken, you cause them, all and every of them, to be committed

to safe custodie, eyther in the towne howse, or some other such place of streinghe and restraint as is to be founde where they arrive, there to be kept upon the charges and allowance of the parties by whom they are or shall be brought into the Realme, untill they shalbe dismissed and sent back into their countrie. And heereof requiringe you to have due regard, as of her Majestie's commandement, which by theis our letters we signifie unto you, we bid you hartelie farewell. From the court at Nonsuch, the xxviiijth of September 1595.

Your lovinge freends,

JO. PUCKERINGE, W. BURGHLEY, H. ESSEX,
C. HOWARD, H. HUNSDON, [Th.] HENAGE, ROBERT
CECILL, JO. WOLLER, JO. FORTESCUE.

1598. Sentence condemning salt as Spanish prize; on payment of freight by the captors.—*Adm. Ct. Libels* 66, No. 124.¹

. . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid Nicholas Diggins, part-owner² and proprietor, and master, of the aforesaid ship called the Bonaventure, and the aforesaid Hugh Robinson, master of the said ship called the Dragon, mentioned in this suit, and their shipmates, being duly authorised by letters of reprisal, whilst they were sailing upon the high

¹ *Libels* 69, No. 16 is a similar sentence, of 1603, condemning Spanish goods to Richard Cowper, the captor, upon payment of freight.

² *Ex parte*.

sea, captured the aforesaid ship called the Roebuck, and reduced her into their possession ; And that she, the Roebuck, at the time of her capture had on board the salt now in controversy ; And that the said salt was loaded by subjects of the King of the [two] Spains for the use and on the account of the same King, and at the time of the capture belonged and appertained to a subject or subjects of the same King ; Therefore, we pronounce, decree, and declare that the said salt laden in the said ship called the Roebuck was lawfully captured and surprised ; And we adjudge it to be lawful prize to, and lawfully captured by, the aforesaid Diggins and Hugh Robinson, they first paying and deducting the whole of the freight due for its carriage which has not yet been paid ; And by this our definitive sentence . . . [*in common form*] . . . we dismiss and discharge the said Nicholas Diggins and Hugh Robinson from the suit of the said John Thompson so far as concerns the allegations and claims made by him touching the said salt.

Tho. Crompton.

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*]
 . . . memoratum Nicholaum Diggins ex parte dominum
 et proprietarium ac magistrum navis predicte vocate the
 Bonaventure et Hugonem Robinson predictum, magistrum
 navis predicte vocate the Dragon, in hac lite
 mentionate, eorumque socios navales in ea parte, cum
 literis reprisorialibus sufficienter in hac parte munitos,
 super alto mari navigasse, dictosque Nicholaum Diggins
 et Hugonem Robinson, eorumque socios navales, dum
 ad effectum predictum super alto mari velificarent, navem
 predictam vocatam the Roe Bucke cepisse et in potestatem
 suam redegissee ; Eandemque navem vocatam the
 Roe Bucke, tempore capture ejusdem, salem in hac parte

controversum in eadem oneratum habuisse ; Dictumque salem per Regis Hispaniarum subditos ac in usum et compotum dicti Regis Hispaniarum seu aliquorum ejus subditorum in dictam navem vocatam the Roe Bucke oneratum fuisse, ac tempore capture ejusdem navis vocate the Roe Bucke salem predictum ad aliquem seu aliquos Regis Hispaniarum subditum seu subditos, spectasse et pertinuisse, pronunciamus, decernimus, et declaramus. Dictum igitur salem in navi predicta vocata the Roe Bucke oneratum fuisse et esse legitime captum et reprisatum pronunciamus, decernimus, et declaramus, eundemque salem pro preda legitima, ac legitime capta, predictis Nicholao Diggins et Hugoni Robinson, soluto prius et deducto integro naulo debito pro vectura dicti salis et nondum soluto¹ adjudicamus ; Dictosque Nicholaum Diggins et Hugonem Robinson ab instantia dicti Johannis Thompson quoad allegata et petita per eum in hac causa concernentia salem predictum dimittimus et absolvimus per hanc nostram sententiam diffinitivam sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

Tho. Crompton.

JUL. CAESAR.

1598. Sentence for restitution of a French banker spoiled by an Englishman.²—
Adm. Ct. Libels 66, No. 113.³

. . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare

¹ These words are interlined in Caesar's hand.

² No. 28 on the same File is a similar sentence for restitution of the Wolf, of Hamburgh, spoiled by the same ship, the Scorene.

³ No. 73 on the same File is a sentence in the same matter passed by Commissioners who had been specially appointed to hear cases of spoil of Frenchmen ; it is in almost the same words, and is of a few months' later date ; why there should have been two proceedings upon the same matter is not clear, possibly that before the Commissioners was to avoid an appeal.

that the above-named Louis Retowe, Pierre Retowe, and Jean Peawe, as well as François Papineawe, were, at the time of her capture, and now are, the true owners and proprietors of the ship called the Marquis d'Olonne, and of the fish in her, and that at the same time the aforesaid Boldron and Mondocke, and other subjects of the King of the French, were the shippers of the goods in the same ship, and that they and the others above named were, all of them, subjects of that King, and fitted out and set her forth for a voyage to the newly discovered land called Newfoundland, to bring back her catch of fish to France ; And that the said ship, whilst on her voyage home to France, according to her orders, with her catch of fish on board, was, on the high sea, forcibly captured, seized, and spoiled by the aforesaid Thomas Broughton, the captain of a ship called the Scorn, of London, and by his fellows and accomplices ; And that the plaintiffs, at the time of the capture, were in quiet and peaceable possession of the ship and of 12800 fish that were in her, and were the lawful possessors, owners, and proprietors thereof ; And that, nevertheless, the aforesaid Thomas Broughton and his fellows and accomplices, despoiled and deprived the plaintiffs of the ship, the Marquis d'Olonne, or at least of the government and disposition of her and of her lading of fish, and unjustly and without having obtained any lawful authority in that behalf, seized, carried off, disposed of, at their will the ship and the fish in her, and converted the same [to their own use] ; and afterwards brought the ship to England. And, further, we pronounce, decree, and declare, that the before named Sir Thomas Gerrarde was the owner and proprietor of the aforesaid

ship called the Scorn of London and fitted her out to make captures from the subjects of the King of Spain, and appointed the said Thomas Broughton to be captain of her, and that he, Thomas Broughton, was and is captain of her ; And that the aforesaid Sir Thomas Gerrarde, himself or by his agents, after the arrival of the ship in England, received and kept in his own possession the 12800 fish [on board her], and either sold or disposed of them for his own benefit and at his own will ; And that the fish were and are the property of subjects of the King of the French, who, with his subjects, is well known to be in alliance and friendship with our most serene lady the Queen of England ; Therefore, we pronounce, decree, and declare, that the plaintiffs ought of right to be protected, defended, and maintained in their lawful possession of the aforesaid ship and fish, if the same [fish] are in existence, and if not, to be paid their value, which we, according to lawful proof made to us in that behalf, estimate and assess at forty shillings per hundred, and that peaceful and quiet possession thereof ought of right to be delivered and restored to the plaintiffs, and that the pretended possession of Thomas Broughton to the ship and fish is unlawful, bad, and moreover void in law. And we also pronounce, decree, and declare, that the said Sir Thomas Gerrarde and Thomas Broughton ought of right to be deprived of, and removed, and expelled from, their possession thereof, and by these presents we remove and expel them from the same accordingly. And we adjudge quiet and peaceful possession of the ship and fish, if the fish are in existence, to the said François Papineawe and Michael Marsereaux, and their

partners, and if not, that they be paid their true value, which we estimate and assess as before stated. . . [*Condemnation of Gerrarde and Broughton in costs, and discharge of the plaintiffs' bail, in common form.*]

Jno. Hone.

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*]
 . . . prenomatos Ludovicum Retowe, Petrum Retowe, et Johannem Peawe; necnon quosdam Franciscum Papineawe, fuisse et esse, tempore capture navis appellate the Marques of Olona infranominate, ac piscium in eadem existentium, veros dominos et proprietarios ejusdem navis, ac eodem tempore prefatos Boldron et Mondocke aliosque Francorum Regis subditos, ejusdem navis oneratores, eosdemque omnes et singulos fuisse et esse dicti Francorum Regis subditos, eandemque navem vocatam the Marques pro viagio piscationis ad novam terram vulgariter appellatam Newfounde Lande faciendam, atque abinde ad partes Frauncie cum oneratione piscium redeund', instruxisse et emisisse; Atque dictam navem in partibus de Newfoundlande predict', cum piscibus predictis oneratam [esse]; Eandemque navim, cum oneratione sua hujusmodi, in reditu suo ad partes Frauncie juxta prescriptum viagii predicti velificantem, super alto mari, per prefatum Thomam Broughton, capitaneum cujusdam navis vocate the Scorene of London, ejusque socios et complices, violenter captam et apprehensam et spoliata fuisse et esse; Prefatasque partes agentes tempore capture hujusmodi in quietam et pacificam possessionem ejusdem navis et duodecim millia et octingenta piscium in eadem navi existentium, legitimosque possessores, dominos, et proprietarios, eorundem navis et piscium, fuisse et esse; Prefatum tamen Thomam Broughton, ejusque socios et complices, prefatas partes agentes, ex dicta navi appellata the Marques of Olona, vel saltem gubernatione et dispositione ejusdem, atque omni oneratione sua piscium predictorum, atque a possessione sua legitima predicta, spoliasset et privasset,

navemque ac pisces predictos injuste, absque aliqua auctoritate legitima in ea parte prius obtenta, diripuisse, subtraxisse, et ad eorum libitum disposuisse et convertisse, posteaque ad partes hujus regni Anglie, unacum navi predicta appellata the Marques of Olona, adduxisse pronunciamus decernimus et declaramus; Necnon pre-nominatum Thomam Gerrarde, militem, dicte navis appellate the Scorne of London dominum et proprietarium fuisse, eandemque ad predas capiendas contra Regis Hispanie subditos instruxisse, et dictum Thomam Broughton ejusdem navis appellate the Scorne capitaneum constituisse; Eundemque Thomam Broughton, ejusdem navis capitaneum in ea parte fuisse et esse; Prefatumque dominum Thomam Gerrarde, militem, per se aut suos, post appulsum ejusdem navis appellate the Marques of Olona ad partes Anglie predictae, duodecim millia et octingenta piscium in potestatem suam recepisse et habuisse, eosque omnes et singulos de facto vendidisse vel ad usum et libitum suum proprium disposuisse; Dictosque pisces fuisse et esse bona subditorum Regis Francorum predicti, eundemque Regem, et dictos suos subditos, fuisse in fedore et amicitia cum domina nostra serenissima Anglie Regina, et subditis suis, notorie conjunctos, insuper pronunciamus, decernimus, et declaramus. Prefatas igitur partes agentes in possessione sua legitima antedicta navis predictae ac piscium antedictorum omnium et singulorum, si extent, alioquin si non extent, veri valoris eorundem piscium, quem quidem valorem piscium predictorum ad summam quadraginta solidorum legalis monete Anglie pro quolibet numero centenario eorundem, juxta probationes legitimas coram nobis in hac parte factas estimamus et moderamur, tuendos, defendendos et manutenendos, ac possessionem pacificam et quietam navis et piscium hujusmodi eisdem tradendam et restituendam de jure debere, pronunciamus, decernimus, et declaramus, possessionemque pretensam antedictam dicti Thome Broughton in navi et piscibus predictis violentam, illegitimam, malam, et de jure prorsus invalidam fuisse et esse; Dictosque dominum Thomam Gerrarde, militem, et Thomam

Broughton a possessione sua in hac parte exuendos, amovendos, et expellendos fore de jure debere, etiam pronunciamus, decernimus, et declaramus, sicque per presentes amovemus et expellimus; Prefatisque Francisco Papineawe et Michaeli Marsereaux, eorumque sociis, possessionem quietam et pacificam navis predictæ necnon piscium predictorum, si extent, alioquin veri valoris eorundem piscium, quem ut supra estimamus et moderamur, adjudicamus . . . [*Condemnation of Gerrarde and Broughton in costs, and discharge of bail given by the plaintiffs to prosecute the suit, all in common form.*]

Jno. Hone.

JUL. CAESAR.

1598. Sentence, condemning the purchaser of goods spoiled by a pirate to restore the same or to pay their value.—*Adm. Ct. Libels* 66, No. 88.

. . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare, that a ship called the Sea Horse was loaded in the port of Flushing with certain wares and goods, particularly with some casks of rye and barley, to be carried from there to the town of Morlaix, in Brittany; And that the same ship, whilst sailing on that voyage with the aforesaid goods laden in her, was captured and spoiled by one James Guimart and his companions, and was by them taken to the place commonly called Padstow Roads, in the county of Cornwall, where they disposed of the same at their will; And that the said James Guimart, in the years and months pleaded, was, and now is, commonly, openly, publicly, and notoriously, reputed to be a pirate; And that, without having first obtained sentence or judgment that they were lawful prize, and without having obtained any commission or authority [to capture ships], he sold

and alienated the aforesaid goods, and in particular the said rye and barley ; And that, nevertheless, the aforesaid John Carter . . . [*bought part of the rye and barley ; condemnation of Carter, with order to restore the same or pay its value*].

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*]
 . . . navim quandam appellatam the Sea Horse in portu Vlusingen' nonnullis mercibus et bonis, presertim nonnullis doleis siliginis et hordei, illinc ad oppidum de Morleux in Britannia deferendis oneratam fuisse et esse ; Eandemque navim cum bonis predictis in eadem oneratis in cursu suo in ea parte velificantem per quendam Jacobum Guimart, et ejus socios, captam et spoliatam ac per eos ad locum vulgariter appellatum Padstowe Roade in comitatu Cornubie adductam fuisse et esse ; Eundemque Guimart et socios suos siliginem et hordeum predictum a loco predicto ad eorum libitum disposuisse ; Prenominatumque Jacobum Guimart annis et mensibus articulatis pro pirata communiter, palam, publice, et notorie reputatum fuisse et esse, bonaque predicta, presertim siliginem et hordeum antedicta in loco predicto, vulgariter appellato Padstow Roade, absque sententia sive judicio eadem bona predas legitimas fuisse prius obtento, et absque aliqua commissione sive auctoritate in ea parte prius obtenta, vendidisse et alienasse insuper pronunciamus, decernimus, et declaramus. Prenominatum tamen Johannem Carter . . . [*bought part of the rye and barley ; condemnation of Carter, with order to restore the same or pay its value*].

JUL. CAESAR.

1599, *circa*.¹ Proclamation against spoil of ships of Venice or Tuscany.—*S.P. Dom. Eliz.* Vol. cclxx, No. 21.

[*After a long and argumentative preamble the proclamation proceeds :*]

. . . . And for farther prooffe of Her Majesty's princely meaning in this case, but specially of her good affection to the Seignury of Venice and the Grand Duke of Tuscan, that they might know what regard is had by her Majestie to shew all favors to their subjects, her Majestie straitly chargeth and commandeth all and singular her loving subjects, upon their allegiance, from henceforth to forbear to intermeddle with any shippe or vessel whatsoever belonging to the said Seignury of Venice, or Grand Duke of Tuskan, or any other prince or potentate in league and amitie with her Majestie within the Straites, or elsewhere, under paine of death, both to the takers, and to all their comforters, aiders, or abettors whatsoever. And farther, her Majestie now commaundeth, that whosoever shall hereafter intermeddle with, or take at sea, any shippe or vessell coming from, or going to, any port or haven belonging to the sayd Seigneurie of Venice, or Grand Duke of Tuskane, and shall break the bulke of the goodes of any such shipp or vessell, (though the prise be lawfull), before the same shalbe adjudged good prize in the high court of the Admiralty, such offenders shalbe executed as pirates, and the shippe, with the prize also, shalbe forfeited to her Majestie,

¹ Undated. A general proclamation against piracy, dated 8th Feb. 1599, is printed in Rymer, xvi, 364, with a form of bond for good behaviour.

whereby justice may be done to all persons that have just cause of complainte. And for that her Majestie is farther certified that diverse of her merchant shippes trading, as well to the Straites as to other places in league and amitie with her Highnesse, being strongly furnished, (as reason is they should be), for the defence of themselves against the violence of the Spaniard, doe oftentimes offend and endamage her Majesty's good friends upon the seas, under colour of taking the subjects of the Spanish King, her Majesty straightlye chargeth and commandeth all her loving subjects that none of them shall hereafter send to the seas any shippe by way of trade or traffique, but shall first enter into band before the lord high Admirall of England, or his officers, to the full value of his shippe, furniture, and victuall, that the companye of that shippe shall not offend, endamage, hurt, robb, or spoil any shipp or vessell of any, her Highnes' sayd friends or allies under pain of confiscation of such shippes as shalbe sent to sea before such bonds so entered and such further punishment as it shall please her Majestie to inflict upon the offenders in that behalfe.

1599 (*undated*). Nottingham to Caesar. Two ships, arrested for having sailed without giving security for good behaviour, to be discharged.—*Adm. Ct. Libels* 67, No. 55.

Mr. Caesar, This shippe, the Mary Anne, and the Michaell and Bernarde, of London, as I am enformed, were lately taken upp for some service into Ireland, in the late expedition of the Earl

of Essex ; from whence they went, both of them, for Burdeaux, gyvinge noe bonds, accordinge to the proclamation, nor having lycence from me. Notwithstanding, because they went out on her Majestie's service, I am the rather contented to remitt their error, and doe pray you to cause them to be dischargd of the arrest lately made on them for that purpose.

NOTINGHAM.

1600. Sentence restoring to their owner a German ship and goods unlawfully captured.—*Adm. Ct. Libels* 68, No. 178.¹

. . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare that the aforesaid Heinrich Kruger,² in the year and months pleaded, and particularly at the time of the capture of the same ship, the St. Michael, and of her lading, by the said Sir Thomas Sherley junior, knight, and his companions mentioned below, was master, and also lawful possessor of her, and of the goods, wares, and merchandise on board, and particularly of the goods specified in the schedule annexed to these presents, which had been laden and were at the time in her, and that he [Crowger] was then in quiet, lawful, and peaceful possession of them, in the name and for the use of their owners, proprietors, and shippers ; And that according to proof [thereof] lawfully had and made elsewhere before us, the said Heinrich Kruger was, and the owners of the St. Michael, and the owners, proprietors, and shippers, of the goods, wares,

¹ Spanish (enemy) goods on board this ship were condemned ; see p. 306 below.

² Crowger.

and merchandise, mentioned in the same schedule annexed to these presents as aforesaid were, at the time aforesaid, and now are, Germans, and friends of our lady, the Queen, and of her subjects, and for such are commonly known ; And that the said Sir Thomas Sherley junior, knight, captain of a ship called the Golden Dragon, and his companions, in the year and months pleaded, violently attacked him, Heinrich Kruger, whilst he was, as master, in quiet, lawful, and peaceful possession of the said German ship [the St. Michael], and of the aforesaid goods laden on board her, and particularly of the goods mentioned in the schedule annexed to these presents, and by force and arms dispossessed him thereof, and spoiled and deprived him of the possession of the same, or at least strove and intended to do so, and violently forced himself and his companions into the said German ship ; Wherefore we pronounce, decree, and declare that he, Heinrich Kruger, her master, ought of right to be protected, maintained, and confirmed, in his lawful possession of the same ship, the St. Michael, and of all and singular the goods, wares, and merchandise mentioned in the schedule annexed to these presents, and that actual and peaceful and quiet possession of her, and of the goods, ought to be delivered and restored to him ; And that the possession claimed by the aforesaid Sir Thomas Sherley junior, knight, and his companions, the parties to this suit, to the St. Michael and the goods is [founded only on] violence, and is unlawful and of no effect, and therefore is in law void ; And we adjudge that the said Sir Thomas Sherley junior, knight, and his companions ought of right to be removed and expelled from their said forcible possession

[of the same], and by these presents we so remove and expell them accordingly. And we adjudge actual, and quiet and lawful possession of the aforesaid ship called the St. Michael, and of her apparel and furniture and of all and singular the goods, wares, and merchandise, mentioned in the schedule annexed to these presents, and lately seized in the same ship, to the aforesaid Heinrich Kruger. [*Condemnation of Sherley in costs, in common form.*]

Ny. Stywarde.

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*]
 . . . prefatum Henricum Crowger, anno et mensibus in hac parte allegatis, et presertim tempore capture ejusdem navis the St. Michael, ejusque onerationis, per dictum Thomam Sherley juniorem, militem, ejusque socios inferius mentionatos, dicte navis the St. Michael magistrum fuisse et esse, necnon legitimum possessorem dicte navis the St. Michael, ejusque onerationis, viz., bonorum, mercium, et mercimoniorum in eadem, et presertim bonorum in schedula presentibus annexa specificatorum, tunc temporis oneratorum et existentium, ac in quieta, legitima, et pacifica possessione eorundem, nomine et pro usu dominorum, proprietariorum et oneratorum eorundem tempore predicto fuisse ; Dictumque Henricum Crouger ac dominos, proprietarios, et oneratores predictos dicte navis the St. Michael, ac bonorum, mercium, et mercimoniorum in eadem schedula presentibus annexa ut prefertur mencionatorum, tempore predicto, ac in presenti, fuisse et esse Teutonicos, et amicos domine nostre Regine, ejusque subditorum, proque talibus communiter reputatos, juxta probationes legitimas alias coram nobis in hac parte habitas et factas, pronunciamus, decernimus, et declaramus ; Prefatumque dominum Thomam Sherley juniorem, militem, capitaneum navis appellate the Golden Dragon, ejusque socios, anno et mensibus in hac parte allegatis, eundem Henricum Crouger, magistrum antedictum, in possessione quieta,

legitima, et pacifica, dicte navis Teutonice, et bonorum predictorum in eadem oneratorum, et presertim, in schedula presentibus annexa, ut prefertur, mentionatorum, existentem, hostiliter invasisse, ac vi et armis a possessione sua predicta expulisse, spoliasse, et amovisse, seu saltem expulere, spoliare, et amovere laborasse et intentasse, seque ejusque consortes in eandem navem Teutonicam violenter intromisisse, juxta probationes legitimas alias coram nobis in hujusmodi causa habitas et factas, etiam pronunciamus, decernimus, et declaramus.

Quocirca eundem Henricum Crouger, magistrum antedictum, in possessione sua legitima antedicte navis the St. Michael, ac bonorum, mercium, et mercimoniorum omnium et singulorum in schedula presentibus annexa specificatorum in eadem captorum tuendum, defendendum, et manutenendum fore, ac possessionem realem, pacificam, et quietam navis Teutonice et bonorum predictorum in schedula presentibus annexa specificatorum eidem tradendam et restituendam fore de jure debere pronunciamus, decernimus, et declaramus, possessionemque pretensam antedictorum Thome Sherley junioris, militis, et sociorum, partium agentium in hac causa, in dicta navi Teutonica et bonis predictis in schedula presentibus annexa mentionatorum violentam, illegitimam, et nullam, ac de jure prorsus invalidam fuisse et esse; Dictumque dominum Thomam Sherley juniorem, militem, ejusque socios, a possessione sua violentia antedicta in hac parte amovendos et expellendos fore de jure debere pronunciamus, decernimus, et declaramus, sicque per presentes amovemus et expellimus. Prefatoque Henrico Crowger possessionem realem, quietam, et legitimam navis predicte, appellate the St. Michael ejusque apparatus et ornamentorum, ac bonorum, mercium, et mercimoniorum omnium et singulorum in schedula presentibus annexa respective mentionatorum, in eadem navi nuper captorum adjudicamus . . . [*condemnation of Sherley in costs, in common form*].

Ny. Stywarde.

JUL. CAESAR.

1600. Sentence condemning Spanish goods in a German ship to the captor, as good prize.—*Adm. Ct. Libels* 68, No. 177.¹

. . . Therefore we, Julius Caesar . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid Sir Thomas Sherley junior, knight, and his companions and partners, having been duly empowered in that behalf, fitted out and armed in warlike fashion for making captures a certain ship called the Golden Dragon, and that he Sir Thomas Sherley was lawfully appointed captain of her ; And that, afterwards, in the months of December, January, February, and March, in the year of our Lord (according to the English style) 1599, or in some or one of those months, with the soldiers and mariners in the same ship so fitted out as aforesaid, he attacked, overcame, and reduced under his own power the said ship called the St. Michael, together with her lading ; And that the same ship, the St. Michael, in the year and months pleaded, or in one of those months, before her capture, was loaded at Lisbon with divers goods, things, wares, merchandise and sums of money ; And that, so far as has been proved to us, the owners and proprietors of such goods, things, wares, merchandise, and sums of money, (except the two shillings mentioned in the schedule to these presents), were at the time of the shipping of the goods and also at the time of their capture, and before that, and that they now are, subjects of the King of Spain, (goods belonging to whom are declared to be good prize) ; And that, [therefore, the same

¹ The ship and German goods on board her were restored ; see p. 302 above.

goods, things, wares, merchandise, and sums of money are lawful prize], and as such ought to be condemned to the use of the said Sir Thomas Sherley and his companions. And by this our definitive sentence [*in common form*] . . . we pronounce, decree, and declare that the possession of the same, all and singular, (with the exception mentioned above), ought forthwith to be handed and delivered to the aforesaid Sir Thomas Sherley, knight, and his companions.

Tho. Crompton.

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*]
 . . . prenomiatum Thomam Sherley juniorem, militem, ejusque socios et consortes, quandam navim appellatam the Golden Dragon, bellico more sufficienter in ea parte auctorizate ad predas capiendas instruxisse et armasse; eundemque dominum Thomam Sherley ejusdem navis capitaneum legitime constitutum fuisse et esse; Posteaque, mense Decembris, Januarii, Februarii, et Marcii, anno Domini, stilo hujus regni Anglie, 1599, aut eorum mensium pluribus, uno, sive aliquo, cum militibus et nautis, in eadem navi sic instructa, super alto mare dictam navem appellatam the St. Michael, una cum oneratione ejusdem aggressos fuisse, debellasse, et in potestatem suam redegissee; Eandemque navem the St. Michael, anno et mensibus articulatis, seu eorum aliquo, et ante tempus capture sue hujusmodi, fuisse Vlisbone oneratam diversis bonis, rebus, mercibus, mercimoniis, et pecuniarum summis, dominosque et proprietarios eorundem bonorum, rerum, mercium, mercimoniorum, et pecuniarum summarum, (exceptis iis que in schedula presentibus annexa menconata sunt), quantum nobis constare potuit aut potest, tempore onerationis et capture eorundem, anteaque, subditos Regis Hispanie fuisse et esse, quorum bona pro legitima preda adjudicanda sunt, pronunciamus, decernimus, et declaramus. Et ideo eadem bona, omnia et singula, res, merces, mercimonia, et pecuniarum summas, in navi predicta onerata, et tempore

capture navis predicte in eadem existentia, exceptis iis que in schedula presentibus annexa specificantur et designantur, predam in hac parte legitimam fuisse et esse, proque preda legitima in usum dicti domini Thome Sherley et sociorum pronunciamus, decernimus, et declaramus; possessionemque omnium et singulorum eorundem (exceptis preexceptis) memorato Thome Sherley juniore, militi, capitaneo antedicto, et sociis predictis, tradendum et deliberandum fore insuper pronunciamus, decernimus, et declaramus per hanc nostram sententiam . . . [*in common form*].

Tho. Crompton.

JUL. CAESAR.

1600. Joint capture. Sentence distributing a prize between joint captors.—*Adm. Ct. Libels* 68, No. 159.¹

. . . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare, that the ships mentioned in the libel, namely, the Diamond and the Prudence, in the year and months pleaded, were properly and fully armed and fitted out by the parties named in this [our] judgment, and were lawfully set forth to sea to capture prizes, and for some time sailed on the high seas together in company; and that afterwards, in the same year and months, the said ship, the Prudence, whilst on the high sea, and her captain, master, and mariners, entered into and made a consortship, [first] with the captain, master, soldiers, and mariners of a ship of Bristol whereof one Hicks, before mentioned, was captain, and afterwards with the captain, master, mariners,

¹ In this and subsequent sentences, where the Latin original is lengthy and adds nothing to the case, it is omitted. The pleadings to the case in the text are Nos. 138 to 140 on the same File; Sir Walter Raleigh was a party to the suit. Nos. 1 and 27 are similar sentences.

and soldiers, of a ship of the port of Lyme, whereof one Davies was captain—[such consortship] to last for the period and to be upon the terms agreed to and made between them; that is to say, [the ships were to share] ‘ton for ton and man for man’; And that, after the termination and expiration of the consortship so made as aforesaid with these two ships, the said George Browne the captain, commander, governor, and master of the Prudence, having previously lost eight or nine of his company, the seamen and soldiers on board her, and also the ship’s boat or skiff and part of her armament, the [rest of] his company then on board, being of poor quality, were by no means fit to make captures, either then or when she sailed from England; And that, afterwards, the Prudence, and her captain, commander, governor, and master, and the mariners and soldiers in her, fell in with the said ship, the Diamond, on the high sea, and on several, or at least one occasion, talk was had between the captains, commanders, governors, masters, mariners of the two ships respectively, and subsequently the two captains, by and with the consent and approval of the majority of the soldiers and mariners in either ship, on behalf as well of themselves, as of the owners, proprietors, and victuallers of the two ships respectively, entered into, made, and agreed to, a consortship, upon the following terms, namely, that whatever capture should be made by the two ships, or by either of them, whilst in sight of the other, or within twenty-four hours of their losing sight of each other, it should be shared amongst the owners, proprietors, and victuallers, captains, soldiers and mariners of the two ships respectively, according to their

respective tonnage and crews—as they say in England—ton for ton, and man for man ; And we pronounce, decree, and declare, that, afterwards, in confirmation of the said consortship, the captains, masters, and mariners, of the *Diamond* and the *Prudence* changed and put a man out of either ship into the other ; And that, after entering into this consortship, the two ships cruised together on the high sea in company, and for some time in sight of each other, for the purpose of making captures and supporting and assisting each other ; And that the captains and masters of the two ships respectively gave and received to and from each other directions or instructions indicating the most likely and suitable course to be taken for the purpose of making captures ; And that, upon the very night before the capture of the prize now in controversy, they had a discussion as to how they should order themselves, and what course they should steer, and that each of them gave and received directions to or from the other, to the end that captures might the better be made, as well for their own use and benefit, as for that of their owners and proprietors ; And that the masters and mariners of the two ships ordered themselves and their respective ships, and sailed accordingly, with the intention [and for the purpose] of making captures and rendering mutual assistance to each other ; And that, after the premises, and within twenty-four hours [of their sailing on this night, as aforesaid], the captain and mariners of the *Prudence* sighted the *Ascention*, the ship now in controversy, and chased her with all the sail she could carry ; And that the said ship the *Ascention*, together with the sugar and other goods on board, were

captured and subdued by the captain and mariners of the Prudence within the time specified in the said consortship, namely, within twenty-four hours of the Diamond losing sight of her ; And that the Ascention, with her lading, was brought to the port of Dartmouth. Wherefore we pronounce, decree, and declare that the Ascention, and the sugar and other goods in her, is lawful prize ; and that she, and her lading, are to be divided, shared, and allocated by and amongst the owners, proprietors, victuallers, mariners, and soldiers, of the two ships [the Prudence and the Diamond] respectively in accordance with the terms of the said consortship agreement, namely, ton for ton and man for man, and by this our definitive sentence [*in common form*] we allocate the same accordingly.

Tho. Crompton.

JUL. CAESAR.

1601. Interlocutory sentence condemning as prize Spanish goods in Dutch (?) ships.—*Adm. Court, Libels* 68, No. 60.

. . . . [*Common form*] Therefore we, Julius Caesar, pronounce, decree, and declare that the said Robert Mansell, knight, was in the year of the Lord 1601 and in the months pleaded, or in some or one of them, the conductor and captain of the royal ship of the said most serene lady our Queen¹ called the Hope, and that he had sufficient and lawful authority and power to capture goods, things, wares, and merchandise belonging to enemies and adversaries of the said lady our Queen aforesaid, and of pursuing and

¹ The Queen is the promoter, or plaintiff, in the suit. Cf. *Adm. Ct. Libels* 68, Nos. 55, 60, a capture by the Hope.

subduing them ; and that the same Sir Robert Mansell, whilst sailing upon the high sea with the said royal ship, rightly and lawfully captured all and singular the several ships above named, together with their cargoes, and brought them to England ; and that the whole of the pepper in the said six ships at the time of their capture, marked with the signs and marks figured in the margin, was loaded and put on board of them at Lisbon, in Portugal, and by right of ownership or quasi-ownership belonged to subjects of the King of Spain, enemies of the said lady our Queen, and so belonged at the time of the capture of the aforesaid ships. Therefore we decree that all and the whole of the aforesaid pepper, marked with the aforesaid marks and writing, and captured in the same six ships as aforesaid, was and is rightly and lawfully captured, and by this our interlocutory sentence, or this our decree, which we pass and promulgate by these presents, we adjudge it to be lawful prize.

JULIUS CAESAR.

Ny. Stywarde.

Tho. Crompton.

Rich. Trevor.

. . . Idcirco nos Julius Caesar . . . dictum Robertum Mansell, militem, navis regalis dicte serenissime domine nostre regine vocate the Hope anno domini 1601, ac mensibus articulatis aut eorum mensium aliquibus sive uno, ducem et capitaneum fuisse, atque auctoritatem et potestatem bona res merces et mercimonia hostium et inimicorum dicte domine nostre regine predictae capiendi, ipsosque hostes insequendi et debellandi, sufficientem et legitimam habuisse ; Eundemque dominum Robertum Mansell super alto mari cum dicta navi regali velificantem naves separatas superius nominatas, omnes et singulas, unacum earum onerationibus separalibus, rite et

legitime cepisse, et ad partes Anglie adduxisse; totumque et omnem piperem in dictis sex navibus tempore capture earundem existentem, atque signis et stigmatibus in margine descriptis consignatum, Lisbone, in partibus Lusitanie, in eisdem oneratum et impositum fuisse et esse, atque ad Regis Hispanie subditos, et dicte domine nostre regine hostes, jure dominii seu quasi pertinuisse et spectasse, et sic tempore capture navium predictarum pertinere et spectare, pronunciamus decernimus et declaramus; Ideoque totum et omnem piperem predictum, predictis stigmatibus et signis ut prefertur consignatum, et in eisdem sex navibus ut prefertur captum, rite et legitime sic captum fuisse et esse decernimus, ac predam esse legitimam adjudicamus per hanc nostram sententiam interlocutoriam, sive hoc nostrum decretum quam sive quod ferimus et promulgamus in hiis scriptis.

Ny. Stywarde.

JULIUS CAESAR.

Tho. Crompton.

Rich. Trevor.

1601, circa. Proclamation prohibiting trade with Spain or Portugal; ships and goods bound there to be captured.¹—*Add. MSS.* 36767, f. 31.

Forasmuch as it is found by the experience of manie yeares that the late King of Spaine, not onely by sundrie secret practises, but also by open hostility hath sought to disturb the generall peace of Christendome, to invade with greate armies, both by land and sea, the Kingdomes of England and Ireland, to practise with traiterous and disloyall subjects to withdrawe their obedience from her Majestie, their lawefull souverain, and

¹ In Caesar's handwriting. There is a rough draft in the same volume. No print has been found.

lastly by most treasonable courses (dishonorable and unworthie of a king), to seak the destruction of her Royall person, from whom have issued to him abundantly in former times most sweete streames of neighborly and gracious favours. And whereas his sonne, the nowe King of Spaine, doth daily insist in the steppes of his father in continuing against her Highnes' hereditary Kingdome of Ireland the like undue practises and hostile proceedings, pretending a title to himselfe by the donation thereof by that man of sinne, the Bishop of Rome, (a president not to be indured by souverain Princes), and to that purpose hath publickly notified to her Highnes' subjects of that Kingdome, that they shall withdrawe their obedience from her Highnes, and submit themselves to his government, as to their lawefull king, thereby unjustly usurping her Majestie's most just and lawefull title, and intruding himself most unlawfully into her Majestie's hereditary kingdome, enjoyed quietly for manie hundred yeres by her Highnes and her predecessors without any chalenge, claime, or title, made or pretended thereunto, or to any part thereof, by anie forreine Prince whomsoever. And forasmuch as likewise the Spanish king hath no meanes by himself and his owne territories to furnishe and prepare anie mightie armies either by sea or land, to the annoyance of her Majestie's kingdomes, without the helpe and assistance of those who be her Highnes' confederates, frendes, or allies, and that the stopping hinderance and impeaching of all commerce and traffick with him in his territories of Spaine and Portingall will quickly, in likelihood, give an ende to these bloudie and unnaturall warres, which disturbe the generall peace and quiet of all theise partes of

Christendome; Her most excellent Majestie, knowing, in her princely wisdom, that in every commonwealth or kingdome the chieftest lawe of pollicy to bee regarded by the Souverain Commaunder is the safety and preservation of the kingdomes and people committed to his charge, hath thought fit, according to that supreme lawe of government ingrafted by nature in the hart of every souverain Prince, warranted by the lawe of God, and confirmed by the continuall practise of her neighbour nations in theise latter times, to prohibite and forbid, and by this present proclamation or edict doth prohibit and forbid, all and every one, of what condition realme or land soever, none excepted, to lade, ship, carry, or transport by sea, directly or indirectly, under what coulour or pretence soever, any ships, goods, wares, or marchandises, for or to any haven, towne, citie, or place, of the King of Spaine, in the Kingdomes of Spaine or Portingall, or any of them, uppon paine to bee accompted and adjudged adherents, partakers, helpers, aiders, comforters, abettors, and assistants, to her Majestie's known enemy, and uppon paine of confiscation of the same goodes, wares, and marchandises, together with the shippes or vessels wherein the same shalbe laden. And to the intent that this prohibition of traffick with the Kingdomes of Spaine and Portingall may take effect, to the withdrawing of those meanes from the Spanish King, whereby hee maintaineth theise unnaturall warres, and to the speedie procuring of a generall peace and quiet, both to her Highnes and also to all theise partes of Christendome, her Highnes is pleased that all her loving subjects, who shall hereafter set out anie ships or vessels of war to the sea by the licence of the Lord High Admirall

of England under the greate seale of his office, shall assaile and set uppon by force of armes, or otherwise and by their best endeavours and meanes shall apprehend and take all maner of shipping whatsoever going for or to any towne, haven, citie, or place, of the King of Spaine in the Kingdomes of Spaine or Portingall, or any of them, and the same shipping so taken, with all the goods, marchandises, money, or jewels, laden therein, shall with all convenient speede bring or cause to be brought into some port or haven of this realme of England, there to remaine in safe custodie till the same shalbee adjudged by the judge of the high court of the Admiralty of England for the time being to bee forfeited and confiscated for the causes above recited. And that after such judgement given, and a true inventory and appraisement made by order from the said judge under the seale of the office, it shalbee lawefull to and for the owners, vitaylers, capitaine, and companie, of every such man of war to sell or dispose of all such shipping, goods, marchandises, money, and jewels, at their pleasure; And that it shalbee lawefull for all maner of persons, as well her Majestie's subjects, or any other, to buy of the said goods and marchandises, and the ships or vessels so taken and adjudged—as aforesaid, without¹ daunger, losse, hinderance, trouble, molestation, or incumbrance, to befall to the said buyers or any of them, and in as ample and lawefull manner as if the said goods marchandises or shipping had bene come by through the lawefull traffick of marchants, or as just prizes in time of open and proclaimed war. And to the end that her Highnes' neighbour Princes may understand her resolution, as well in

¹ Within, in original.

withstanding the open forces of the King of Spaine and all his pertakers, and impeaching the commerce and traffick by the sea, as also in her especiall care that the subjects of her frendes, allies, and confederates, shall not suddenly bee surprised by vertue of this edict or proclamation before sufficient notice given thereof, her Highnes doth expressly commaund and ordeine that this proclamation or edict shall take its¹ force from the first day of March next, and not before ; in which mean time her Majestie will give order that notice thereof shalbe given in the severall counties, kingdomes, and provinces, in league or amitie with her Highnes, that none of her confederates, frendes, or allies, nor anie of their subjects, shall justly be hable to pretende ignorance for his excuse, if his shipping or goods shalbe confiscated for repairing to the said countries of her Majestie's known enemy the King of Spaine, as is afore ordeined.

1601. Certificate by the Lord High Admiral that, since the proclamation of 1589, all food, warlike and shipping stores, in neutral ships voluntarily carried to Spain have been condemned as prize, and that no freight has been allowed to the carrier.—*Adm. Court, Exemplifications* 34, No. 96.²

Charles, Earl of Nottingham &c, to the most illustrious Prince the Grand Duke of the Tuscans and Florence, and to his magistrates and judges,

¹ In original 'his.'

² See *S.P. Dom. Eliz.* cciv, 95 and pp. 102, 106, 291, 335, as to payment of freight.

whosoever they may be, and to others of whatsoever dignity, estate, honour, rank, pre-eminence, or condition they may be, to whom these present letters shall come, and who may see, read, or hear them read, Greeting. By testimony of these presents we make known to your Excellency and Lordship that in the year 1589, by a public edict published and proclaimed by authority and command of our most serene and illustrious lady Queen Elizabeth, it was prohibited and forbidden that any grain, victuals, provisions, or other material for war or shipping, be carried by anyone, of whatsoever condition or estate, into the parts of Spain, Portugal, or other territories subject to the King of the [two] Spains, upon pain of confiscation, if they should be captured by English captains. And that since the issue of such prohibition against the transport of grain, provisions, victuals, and other material for shipping, all grain, victuals, provisions, and war material in any ships, whether French, German, Danish, English, Scottish, or of any other nation, destined for the kingdoms, territories, or dominions of the said King of the [two] Spains, that have been seized by any Englishman, have from time to time been pronounced and adjudged by our Lord High Admiral aforesaid, or by his lieutenant, the judge of the High Court of Admiralty of England, to be lawful prize, to the use of the captors and their fellows, without payment to the owners or masters of the ships so voluntarily assisting the subjects of Spain, or some of them, of any freight for the same, as fully appears from the register and archives of the said High Court of Admiralty of England, where all such decrees and sentences are preserved. And this, at the urgent request of Henry Fawkner,

who intervenes in the name of Richard Gifford, an English captain, we have caused to be certified. And for the greater certainty thereof we have caused the great seal of the High Court of Admiralty to be affixed to these presents. Given at London in the High Court aforesaid, on the 26th day of the month of September, 1601, and in the 43rd year of our reign.

Carolus Comes Nottingham &c. Illustrissimo principi magno Tuscanorum et Florentie duci, ejusque magistratibus et Judicibus quibuscunque, aliisque cujuscunque dignitatis, status, honoris, gradus, preeminentie, sive conditionis, extiterint, ad quos presentes literae pervenerint, ipsasque visuris, lecturis, aut legi auditoris, Salutem. Excellentie et dominationibus vestris harum testimonio notum facimus, fidemque indubitam adhibemus, quod, in anno 1589, edicto publica auctoritate et mandato Serenissime Illustrissimeque domine nostre Elizabethæ regine edito et divulgato vetitum et prohibitum fuit quod nulla grana, victualia, comeatus, aliive apparatus bellici aut navium usui apti et accommodandi, per quoscunque, cujuscunque conditionis seu status fuerint, in partes Hispanie, Lusitanie aliasve ditiones Hispaniarum regi subditas deferentur, sub pena confiscationis eorundem, si a capitaneis Anglis caperentur; Et quod a tempore hujusmodi interdicti transvectionis grani, commeatus, victualium, et aliorum apparatus navium et belli usui aptorum, omnia hujusmodi interdicta, grana, victualia, commeatus, et apparatus bellici, in quibuscunque navibus Gallicis, Teutonicis, Danicis, Anglicis, Scoticis, et aliarum quarumcunque nationum navibus onerata, et in regna et ditiones sive dominia dicti regis Hispaniarum destinata, que a quibuscunque Anglis intercepta fuerint, per nos, dominum magnum Admirallum antedictum, nostrumve Locumtenentem et Judicem supreme Curie Admirallitatis Anglie de tempore in tempus, pro prediis legitimis in usum capientium et sociorum pronunciata et adjudicata fuerint, absque

solucione pro eisdem cujuscunque nauli dominis, proprietariis, sive magistris, earundem navium voluntarie inservientibus Hispanie regis subditis, aut eorum aliquibus, uti ex registro et archivis dicte supreme curie Admirallitatis Anglie, ubi omnia hujusmodi decreta et sententie custodiuntur, copiose appareat. Que, ad instantem petitionem Henrici Fawkner nomine Richardi Gifford, Capitanei Angli intervenientis significanda duximus, Ac in majorem eorundem fidem sigillum magnum supreme curie Admirallitatis Anglie hisce apponi fecimus. Datum Londini in suprema curia predicta xxvj^o die mensis Septembris 1601 regnique nostri xliij^o.

1602, circa. Direction by Notingham that there be inserted in letters of reprisal a prohibition against selling prizes afloat, and against taking them to Barbary.—*Adm. Court, Exemplifications* 35, No. 110.¹

Good Mr. Doctor Caesar, It is best knowne unto you what care hath bene had for orderlie courses in reprisalls, both for the preservation of her Majestie's honour with her neighbor princes in amitie with her, and for the contentment of her owne subjectes, and what good provision was had by the late proclamation for restrayning of all suche as should goe to sea in that nature for cominge within the Streights or Barbarie. Nevertheless wee have daylie experience howe little the daunger thereof is respected by a great manye, in so muche as, if there be nott some

¹ Cf. *Adm. Ct. Exempl.* 35, No. 110, a letter from Notingham to Caesar on this subject; Rymer, xvi, 312, 436. On the other hand privateering was encouraged by giving the Admiral's tenths to captors; *Manningham's Diary, Camden Ser.* 1868, p. 131.

further stricte and severe courses helde with suche offenders, her Majestie's freindes and alies shalbe robbed and spoyled without meanes of restitution or sattisfaction, the owners and adventurers of any thinge lawfullie taken shalbe defrauded of their partes and shares, and the Queen and myself deceived of such dueties as of right belonge unto us. Therefore untill some better provision maie be had for the reformation of theise abuses, I doe requyre and charge you to inserte bothe into everie commission, and bandes given for them, an espetiall article and clause to inhibite them from cominge either in the Streightes or Barbarie, or for sellinge anye of the goodes taken by them in anye other place then onelie within this realme of Englande. And though ther were in all your former comissions and bandes an article that they should bringe home all their prizes without breakinge of bulke, which in a manner concludeth asmuche as thother, yet those that take out goodes att the sea, supposinge them to belonge to Spanyards, out of other shipps into their owne, and vent them in forrayne places before they come home, thincke them selves not within compas of that article, but beinge precisely bounde to the contrarey before their goeing out, it maie be, will occasion their better carriage hereafter. Soe, prayeinge you good accomplishment herof, I rest

your verie lovinge freinde

NOTINGHAM.

1602. Sentence for restitution of an illegal capture.—*Adm. Ct. Libels* 69, No. 193.¹

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare that the above named Charles Adrianson, Jacob Keyser, Theodore Walran, Nicholas Greuell, William Johnson van Loane, Hansenn van Loane, Nicholas de Sutter, Roger van Peine, Garrett Martson, and their companions, and each of them, in the year and months pleaded, and before and since, were and now are Dutch merchants, and are inhabitants of the parts of Lower Germany which were and are firmly allied in league and friendship with our most serene lady, the Queen, and are commonly reputed so to be ; And that the same Dutch merchants, personally or through their agents, loaded or caused to be laden in a Dutch ship called the White Dove, of the Port of Enchuson in Holland, all and singular the goods, things, wares, and merchandise, mentioned in the schedule annexed to these presents, (which schedule we take to be, and desire to be taken as, here read and inserted), to be carried and transported from thence to places beyond the sea ; And that the said Martson was appointed master of the same ship, the White Dove, for her intended voyage, and received, had, and took charge of her, with her lading, in the name of the said merchants, to make the voyage aforesaid ; And that he, Garrett Martson, with the said ship, the White Dove, and her lading, sailed from Holland on his intended

¹ In consequence of its length the Latin original, which is more than usually full of repetition and verbose, has been omitted. The translation in the text has omitted many of the repetitions.

voyage on the high sea ; Further, that the aforesaid Matthewson, in the year and months aforesaid, or in one of those months, and particularly at the time of the capture of the White Dove, was the owner, proprietor, and possessor of a ship called the Swan, or of some share in her, and was commonly reputed as such, and that the said Clayton was appointed to be her captain, and the said Mann her master or commander ; And that he, Matthewson, armed and equipped the Swan with soldiers, mariners, stores, and necessaries, and afterwards set her forth to sea under the charge of Clayton and Mann, to make prizes ; And that they, Clayton and Mann, whilst they were at sea in the said ship, in the year and months aforesaid, or in one of those months, sighted and fell in with the White Dove, in the course of her voyage, and attacked her in warlike fashion, and captured her, together with her lading, and took her and her lading out of the possession and custody of the said Martson, and despoiled him thereof, and afterwards took the White Dove and her lading to the port of Dartmouth ; And that all and singular the goods specified in the aforesaid schedule were, at the time of the capture of the White Dove, on board her ; And that afterwards he, Matthewson, in the year and months aforesaid, or in one of those months, by sundry acts and doings ratified and assented to the aforesaid capture of the White Dove and her lading by the said Clayton and Mann ; And that all and singular the said goods were, subsequently, at the instance of, and by the desire, and with the consent, of Clayton, Mann, and Matthewson, or one of them, secretly taken charge of, unloaded, and carried off, from the White Dove, and this without

lawful authority, and without adjudication of their being lawful prize having been made in accordance with the course of the high court of Admiralty aforesaid, and without payment having been made to our lady the Queen of her customs, or to the lord high Admiral of England of his tenths, which customs and tenths are payable out of lawful prizes to the Queen and the Admiral respectively ; And that they, Matthewson, Clayton, and Mann, or one of them, received, had, and converted to their own use the said goods, or disposed of them at their will, and that the same, at the time of their capture and spoil, were in the possession of the aforesaid Matthewson, Clayton, and Mann, or one of them, and were marked or painted with, and distinguished by, the marks or tokens drawn on the said schedule ; And that the aforesaid Clayton, Mann, and Matthewson did not, nor did any one of them, after the aforesaid spoiling, restore the said goods to the said Adrianson, Keyser, Walron, Gruell, William and Hansenn Van Loane, de Sutter, Van Peine and Martson, or to any one of them ; And that the same goods are well known to have been worth, at the time of their capture, the respective sums specified in the said schedule, and could have been sold for so much ; And that the said Dutch merchants, the plaintiffs in this suit, by reason of the aforesaid capture and spoil, have suffered loss, in capital value and interest, amounting to £100 ; And that, in consequence of the premises, Matthewson, Clayton, and Mann have been required and asked, jointly and severally, to restore to the plaintiffs, or to their representative, the said goods, and to make good the said loss, or otherwise to make due composition with them as

regards the premises, but have nevertheless refused, or at least have so far delayed, to do so. Therefore we [*in common form*] condemn the said Matthewson, Clayton, and Mann, jointly and severally, as regards the said goods, if the goods themselves are in existence, and if not, in their true value, which we assess at the aggregate of the respective values specified in the schedule, and also in the said sum of £100 in respect of the aforesaid [additional] loss suffered by the plaintiffs; And by this our definitive sentence [*in common form*] we decree that they, after such condemnation, be obliged and compelled either to restore the goods, if they are in existence, or if not, to pay their respective values, and also the amount of the [additional] loss and the costs of this suit, so nevertheless that, upon full payment by any one of them, the rest are to be free from further payment.

Ny. Stywarde.

JULIUS CAESAR.

Jo. Pope.

1602. Sentence condemning, as Spanish prize, to joint captors, three ships captured off Portugal, together with their cargoes, excepting part claimed as Venetian (friends') goods; the captors to share ton for ton, and man for man.—*Adm. Ct. Libels* 69, No. 155.¹

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare, that the three enemy ships called the St. Mark,

¹ The Latin original is omitted in this case, as adding nothing.

the *St. Anne*, and the *sattée*, together with their apparel, furniture, and lading, and all the rest of the goods aforesaid, in the month of March, in the year of the Lord 1601, and on the 16th day thereof, or thereabouts, whilst sailing in company on the high sea off Portugal were chased and attacked for 10, 9, 8, 7, 6, 5, 4, or [at least] for 3 hours, by the English ships named below, and their crews and soldiers, with their joint and united force, that is to say by the *Refusal*, Hugh *Talcarne* captain, the *Lion's Claw*, Anthony *Croker* captain, the *Chance*, Giles *Hawkeridge* captain, the *Riall* (otherwise *Trial*), John *Cooke* captain, the *Watt* (otherwise *Resolution*), Arthur *Middleton* captain, the *Diamond*, Tobias *Cox* captain, and a *carvel*, whereof Francis *Cock* was captain, and that they were finally overcome and captured by the English ships, their captains, mariners, and soldiers ; And that the same three enemy ships, together with their apparel, guns, furniture, and each of them, and the lading of all and each of them respectively, at the time of their capture and before, in right of actual or quasi ownership, (so far as has at present been proved), belonged and appertained to a subject or subjects of the King of Spain in enmity with our most serene lady the Queen and this realm of England ; And that afterwards [the prizes] were by the same captains, mariners, and soldiers, of the aforesaid English ships sent to England, for the use of their owners and victuallers, and were brought to England by the same captains, mariners, and soldiers, or some of them ; And we declare the same enemy ships, and their respective loadings, and the aforesaid goods, (except the goods and wares specified in the schedule¹ annexed

¹ It shows that the goods were Venetian.

to these presents, which in the course of this suit have, at the instance of one Christopher Pandolphini, an Italian, been by us, and by an order of the court, already put in sequestration) to be goods lawfully captured and good prize ; And we pronounce, decree, and declare, that the same [ships and goods] ought to be divided, shared, and allocated, between and amongst the owners, proprietors, victuallers, captains, soldiers, and mariners of [all] the aforesaid English ships rateably, according to their tonnage and the number of men on board them respectively, that is to say ton for ton and man for man ; And we so divide, allocate, and award, them by this our interlocutory sentence, or this our decree ; which we pass and promulgate in these words ; reserving [nevertheless] power to deal with and pronounce upon the excepted goods [in the schedule] as justice shall require.

Nicholas Stywarde.
William Ferrand.

JUL. CAESAR.

1602. Sentence condemning the Venetian goods in the ships dealt with by the last sentence (p. 325) to the captors, as lawful prize.—*Adm. Ct. Libels* 69, No. 123.

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare, that the aforesaid the honourable Charles, Earl of Nottingham, George, Earl of Cumberland, Sir Robert Cecill, knight, Sir John Gilbert, knight, Richard Cole esquire, John Scoble, William Morgan, Simon Birde, Thomas Carter, Tobias

Coxe, and Francis Kocke, and their partners, in the months of January, February, and March, in the year of our Lord 1601, or in one of those months, equipped the aforesaid ships called the Refusal, the Lion's Clawe, the Chance, the Triall, the Diamond, and the Watte (otherwise the Resolution), with victuals, arms, soldiers, and other gear for war, and despatched and set them forth to sea, under proper authority, to capture and subdue ships and goods of the King of Spain and his subjects ; And that the said ships of war and their captains, masters, and mariners, whilst sailing in company on the high sea off the coast of Portugal, on the 16th day of March aforesaid, captured and subdued the above named Portuguese ships called the St. Mark, the St. Anne, and a sattee, [all] of the port of Lisbon, and reduced them and their apparel, guns, and furniture, into their own power ; And that the said ships, at the time of their capture, and their apparel, guns, and furniture, at the time of their capture, belonged and appertained to inhabitants of the said city of Lisbon ; And that the said inhabitants [of Lisbon] were subjects of the King of Spain, and enemies to our most serene lady the Queen, and were held and reputed as such ; And that the said goods and merchandise, which are described in the schedule annexed to these presents, were, under the authority of this court, and at the instance of Christopher Pandolphini, by us and under the authority of this court, sequestrated in the name of the aforesaid merchants of Venice, on board the said ships, the St. Mark, the St. Anne and the sattee, together with other goods on board them, and that the same goods were on board at the time of their capture, and that by reason thereof, they ought, according to the

exigency of justice and the laws and statutes¹ of this realm of England, to be and become the property of the aforesaid captors and their partners; And by this our interlocutory sentence or this our final decree, which we pass and promulgate by these presents, for the reasons aforesaid, and other reasons alleged and proved before us, we adjudge the same to them [the captors] as lawful prize.

William Ferrand.
Tho. Crompton.

JUL. CAESAR.

. . . Idcirco nos, Julius Caesar, . . . [*in common form*]
. . . antedictos honorandos viros Carolum Comitem Nottingham, Georgium Comitem Cumbrie, Dominum Robertum Cecill, militem, Johannem Gilbert, militem, Richardum Cole, armigerum, Johannem Scoble, Willelmum Morgan, Simonem Birde, Thomam Carter, Tobiam Coxe, et Franciscum Kocke, et socios, antedictas naves vocatas the Refusall, the Lion's Claw, the Chaunce, the Riall, the Diamond, the Watte alias the Resolution, et naviculam vocatam a carvell, mensibus Januarii, Februarii, et Martii, anno Domini 1601, seu eorum aliquo, victualibus, armaturis, militibus, aliisque rebus bellicis instruxisse, et ad mare auctoritate sufficienti ad capiendas et debellandas naves et bona Regis Hispanie, et ejus subditorum et adherentium emisisse et destinasse; Dictasque naves bellicas, ac capitaneos, magistros, et nautas earundem, super alto mari in oris maritimis Lusitanie insimul navigantes antedictas naves Lusitanicas vocatas the St. Marcke, the St. Anne, et sattea, portus Vlisbonensis, decimo sexto die mensis Martii predicti ultimo cepisse et debellasse, ac in potestatem suam, cum omnibus bonis et mercibus in eadem [*sic*] onustis redegissee; Dictas[que] naves Lusitanicas vocatas the St. Marcke,

¹ Referring, probably, to 20 Hen. VI, c. 1, *supra* p. 117.

the St. Anne and [a] sattea, earumque apparatus, tormenta, et accessiones tempore earum capture ad cives et inhabitantes dicte civitatis Vlisbonensis spectasse et pertinuisse; Dictosque inhabitantes et cives fuisse et esse dicti Regis Hispanie subditos, et hostes ac inimicos serenissime domine nostre Regine et hujus regni Anglie, sicque habitos et reputatos pronunciamus, decernimus, et declaramus; Dictaque bona et mercimonia in prefata schedula¹ hisce annexa descripta, ac Plimuthe alias per nos et auctoritate dicte curie, mediis cujusdam Christopheri Pandolpheni nomine antedictorum mercatorum Venetorum sequestrata, in dictas naves Lusitanicas vocatas the St. Marcke, the St. Anne, and [a] Sattea, Vlisbone, inter alia bona onerata et imposita fuisse, ac in eisdem navibus, tempore earum capture, extitisse, eoque intuitu, juxta juris exigentiam, legesque et statuta hujus regni Anglie, predictorum capientium et eorum sociorum facta esse et fieri debere, eisque pro preda legitima ex causis predictis, aliisque legitimis coram nobis allegatis ac debite comprobatis in hac parte adjudicamus per hanc nostram sententiam interlocutoriam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

Willelmus Ferrand.

JUL. CAESAR.

Tho. Crompton.

1603. Letter from Nottingham to the Vice-Admiral of Devon, directing him to hand over a prize to the captor, without condemnation by the court.—*Adm. Court, Exemplifications* 35, No. 18.

After my verie hartie commendations, You may perceave by my former letter unto you

¹ The schedule is annexed, and describes the goods, which were cinnamon, wine, sugar, pearls, diamonds, rubies, ginger, pepper, musk, and 'mirabolanes' (plums?).

towching reprintsalls, in what condition they now stand, in soe much as thorough the death of our late soveraigne ladye, the Queene, all aucthoritye formerly graunted for the same is now become voyde, soe as my judge cannot gyve sentence in those cases as haeth bene accustomed. Neverthelessse because the cyvell lawe, by the opynion of the judge, the King's advocate, and the rest of the Admiraltye counsaile, doe give libertye to the takers and owners of any prize that was lawefully taken before the 24th of March¹ last to dispose of the goods of the same prize att their libertye, the King's xxth parte and my tenth part being first deducted, Therefore I doe hereby praye and require you that, notwithstanding there is noe sentence geaven for the prize lately taken by Captayne Robert Carey and company, and brought into Dartmouth, wherein there is noe question of dowbte made of the validitie of the same, you suffer him and his owners, uppon paying the King's twentieth parte, and my tenthes as aforesayd, to dispose of all the goods brought home in the said prize at their free wyll and pleasure, without any your interruption or hindrance (notwithstanding my former order or commandment to the contrary). For which your soe doing this shalbe your warrant. Soe fare you well. From Whitehall, the second of Aprill, 1603.

your verie loving freinde

NOTINGHAM.²

¹ This is a mistake for April; see the proclamation, Rymer, xvi, 516.

² There follows a note by the Vice-Admiral of Devon, directing his deputy to see to the matter. Usually, after sentence, a commission issued from the Lord Admiral for delivery of the capture in accordance with the sentence.

1603. Safe-conduct and licence for a Dutch ship to trade to Portugal and South America.—*Adm. Court, Exemplifications* 35, No. 293.

Charles Earle of Notingham, Baron Howard of Effingham, Lord High Admiral of England, to all to whome these presents shall come, Greetinge. Whereas I have licensed the good shippe named the Love, of Horne in Holland, of the burden of 280 tonnes or thereabouts, whereof Peter Jacobson goeth master, with her ladinge of lawfull commodities, to pass from Amsterdam to Porte Porte, and from thence to Farnanbucke,¹ there to discharge the same, and to relade other marchandises, wherewith she is to retourne for London, Amsterdame, or Midleborough, uppon the accompt of Lowis de la Beque, marchaunte of Amsterdame aforesaid, and his companie. Theise are therefore in her Majestie's name straightlie to charge and commaunde you, and every of you, to permitte and suffer the said Peter Jacobson Geusenbrocke, with his said shippe, her ladinge, and ship's companie, quietlie and peaceablie to passe by you, as well in her waie to Porte Porte and Fernambucke, as in her returne for London, Amsterdam, or Midleborough, withoute anie your let, staies, troubles, or hindaunce. Whereof faile you not at your perils. From the courte at Richmoute, the 25 of Marche 1602.

¹ *Sic.* Pernambuco.

1603. Sentence condemning, as confiscated to the Lord Admiral, a ship that made captures without letters of reprisal.—
Adm. Ct. Libels 69, No. 105.¹

. . . . Therefore we, Julius Caesar, [*in common form*] duly and lawfully proceeding pronounce, decree, and declare, that according to the confession of the aforesaid Roger Sadler, he, Roger Sadler, in the months of July, August, September, October, and November, in the year of our Lord 1602, or in one of those months, was, and that he now is, the owner and proprietor of the said ship, the *Fortune*, and of her apparel, furniture, and guns, all of which have lately been arrested and are described in the schedule annexed to these presents, and that, in the years and months aforesaid, he fitted out, armed, and equipped her for capturing prizes, and sailed in her, without having obtained letters of reprisal, and without giving bail [*for her good behaviour*]; And that the honourable, the Earl of Nottingham aforesaid was, and now is, lord high Admiral of England, and in virtue of his said office, and of the letters patent of our most serene lady the Queen to him granted in that behalf; which are now in the custody of the Registrar of this court, all ships whatsoever, that are set forth to sea

¹ No. 82 on the same File is a similar sentence condemning the *Diamond* and the *Endeavour* to the Lord Admiral for spoiling the Queen's friends and allies—*nonnulla spoliū et depredationes in naves et bona confederatorum et in amicitia et federe cum dicta serenissima domina nostra Regina conjunctorum . . . contra juris in ea parte exigentiam commisisse et patrasse.*

for the purpose of capturing prizes, without first obtaining a commission, or without putting in bail, are confiscated, and are to be applied to his use. Therefore, by this our sentence, or this our decree, which we set forth in this writing, we pronounce, decree, and declare, that the [said] ship, the Fortune, and her apparel as specified in the schedule annexed to these presents, are confiscated, and as such are to be applied and disposed of to the use of the said lord high Admiral of England.

Ny. Stywarde.
Thos. Crompton.

JUL. CAESAR.

. . . Idcirco Nos, Julius Caesar, . . . [*in common form*] . . . juxta confessionem prefati Rogeri Sadler, rite et legitime procedentes, eundem Rogerum mensibus Julii, Augusti, Septembris, Octobris, et Novembris, anno Domini 1602, seu eorum aliquo, fuisse et esse dominum et proprietarium dicte navis the Fortune, ac apparatusum, accessionum, et tormentorum suorum nuper arrestatorum, ac in schedula presentibus annexa descriptorum; Eandemque navim anno et mensibus predictis absque literis represaliarum prius in ea parte obtentis, nullaue cautione prius interposita, ad maria ad predas capiendas preparasse, armasse, instruxisse, et in navi predicta processum fuisse; Prefatumque honorandum virum dominum Comitem Notingham fuisse et esse dominum magnum Admirallum Anglie, ac ratione dicti officii sui, ac vigore literarum patentium dicte serenissime domine nostre Regine sibi in ea parte concessarum, ac penes Registrarium hujus curie remanentium, omnes et quasunque naves absque commissione et cautione in ea parte prius obtenta et interposita ad maria ad predas capiendas emissas in usum ejusdem honorandi viri confiscatas fuisse et esse et in ejus usum disponendas. Ideoque navim the Fortune, et accessiones ejusdem in schedula presentibus annexa descriptas, fuisse et esse

confiscatas, ac ut confiscatas, in usum dicti domini magni Admiralli Anglie disponendas et tradendas pronunciamus, decernimus, et declaramus, per hanc nostram sententiam, sive hoc nostrum decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

Ny. Stywarde.
Tho. Crompton.

JUL. CAESAR.

1603. Sentence for restitution of goods wrongfully captured, on payment of freight by the captor.—*Adm. Ct. Libels* 69, No. 29.¹

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare, that the above named Jean Carrill and Guillaume de la Veut,² in the months of January, February, March, April, and May, 1603, were, and now are, owners and proprietors of the said ship called the Henri, of the port of Havre, and of her furniture and apparel, and also of all and singular the goods and various things mentioned in the schedule annexed to these presents, which schedule we take and desire to be taken as here read and inserted ; And that the said ship is of the burden of two hundred tons or thereabouts ; And that the said Jean Carrill and Guillaume de la Veut, in the aforesaid months were, and now are, subjects of the Most Christian King of France, that now is, and were friends and allies of our most serene lady the Queen ; And that they, Jean and Guillaume, at their great

¹ *Libels* 70, No. 191, and below, p. 341, are sentences for restitution of other goods in the Henri.

² Or Vent.

expense, fitted out and furnished the *Henri* with all necessities for a voyage from Havre, to carry goods and merchandise in her from thence to St. Lucar, in the kingdom of Spain, and also for a fishing voyage from St. Lucar to the newly discovered land commonly called Newfoundland, returning from thence with her fish to the port of Havre aforesaid ; And that certain merchants, allies of our lady the Queen, at Havre put on board and shipped in the *Henri* two hundred and fifty-seven bales, bundles, crates,¹ and chests of linen cloths and other goods, to be carried from thence to the said port of St. Lucar, on payment to the said Jean Carrill and Guillaume de la Veut of a freight of two hundred crowns of the sun for every parcel of cloths or other goods, with average and other charges usual and ordinarily payable in that behalf ; And that the aforesaid Richard Cowper, and his partners, in the aforesaid ship called the *Roselion*, upon the high sea, gave chase to, and attacked, the *Henri* of Havre, as she was sailing towards St. Lucar, and pierced her and tore her to pieces with sundry shots and balls from her guns, and in hostile fashion forcibly captured her, with all the aforesaid wares and goods on board, near Cape St. Vincent, and [from there] took her to the port of Santa Cruz in Barbary, and there took out and carried off from her all and singular the crates, bales, bundles, and other parcels of linen cloths, and other goods, so laden in her as aforesaid, [the same being] the goods specified in the schedule annexed to these presents, and disposed of them at their will, and kept and detained the *Henri* in their power for seven weeks ; And that the said goods and various things specified, as aforesaid, in the

¹ *Vasa arida* = dryfats = crates or cases.

schedule annexed to these presents, were at the time of their capture, and now are, of the respective values specified and set forth in the said schedule ; And that the said Jean Carrill and Guillaume de la Veut, by reason of the capture of the Henri by the said Richard Cowper and his companions, and of other the premises, was prevented from calling at St. Lucar with the said linen cloths and other wares, and from prosecuting his fishing voyage and catching his fish at Newfoundland, and from making the profit, gains, and emolument thereof, and that all the moneys laid out and expended upon such voyage were lost ; And that the aforesaid Richard Cowper has refused and has omitted to restore to the aforesaid Jean Carrill and Guillaume de la Veut, or to their representative, or to pay and satisfy to them the freight due upon, one hundred and forty of the aforesaid two hundred and fifty-seven crates, bales, and other parcels laden in the Henri as aforesaid. Therefore we pronounce, decree, and declare, that he, Richard Cowper, ought to be obliged and compelled to restore to the said Jean Carrill and Guillaume de la Veut, or to their representative, all and singular the goods and various things specified, as aforesaid, in the schedule annexed to these presents, if they are in existence,¹ or if not, to pay or cause to be paid to them, or their representatives, the sum of £72 18s. of lawful English money, for their value, and also to pay to them the further sum of £89 18s. for the freight of one hundred and forty-two of the two hundred and fifty-seven crates, bales, bundles, and chests of linen cloths laden in the Henri as aforesaid, and by him

¹ Words giving damages for the loss of the fishing voyage are struck out.

taken out of her and carried off ; And by this our definitive sentence [*in common form*] we condemn him Richard Cowper in those sums, and also in costs.

Will. Ferrand.

JUL. CAESAR.

. . . Idcirco Nos Julius Caesar . . . prenomatos Johannem Carrill et Willelmum de la Veut, mensibus Januarii, Februarii, et Marcii, anno Domini millesimo sexcentesimo primo ultimo elaps', mensibusque Martii et Aprilis, anno Domini millesimo sexcentesimo secundo jam currente ; fuisse et esse dominos et proprietarios dicte navis vocate the Henry, portus de Graciis, ac apparatus, ornamentorum, et accessionum ejusdem, necnon omnium et singulorum bonorum, rerum, et specierum [rerum], in schedula presentibus annexa mentionatorum, (quam quidem schedulam pro hic lect' et insert' habemus et haberi volumus) ; Dictamque navem fuisse et esse oneris ducentorum doliorum, seu circiter ; Dictosque Johannem Carrill et Willelmum de la Veut, annis et mensibus predictis, fuisse, et in presenti esse, subditos Christianissimi Francorum Regis moderni, et in federe et amicitia cum dicta domina nostra [Regina] conjunctos ; Eosdemque Johannem et Willelmum predictam navem vocatam the Henry pro quodam viagio sive itinere navali, tam mercium vehendarum gratia a portu de Graciis predicto, cum rebus et mercibus in eadem ibidem oneratis ad portum de St. Lucar in regno Hispanie transeundis et transportandis, quam pro piscatorio viagio faciendo a dicto portu de St. Lucar ad terram noviter inventam, vulgo appellatam Newfoundland, etiam transfretandis, et abinde ad portum de Graciis cum piscibus ibidem captis et comparatis redeundi, magnis suis sumptibus rebus cum omnibus necessariis preparasse et instruxisse ; Nonnullosque mercatores, domine nostre Regine confederatos, ducenta quinquaginta septem fardellas, sarcinas, vasa arida, et cistas, cum pannis linteis aliisque mercibus impletas, in eadem navi vocata the Henry in portu de Graciis abinde ad

dictum portum de St. Lucar transportandis pro nauulo duorum coronatorum solarium pro qualibet parcella pannorum et aliarum mercium predictarum, una cum avaragio et aliis denariis in ea parte usitatis et de consuetudine solutis et solvendis prefatis Johanni Carrill et Willelmo de la Veut solvendis, imposuisse et onerasse, dictamque navem, sic ut prefertur preparatam et onustam ad mare sub gubernatione dicti Willelmi de la Veut misisse; Prefatumque Richardum Cowper et socios, in predicta navi vocata the Roselion, portus Londinensis, existentes, eandem navem vocatam the Henry, portus de Graciis, super alto mari versus portum de St. Lucar velificantem, insequutos et aggressos fuisse, variisque ictibus et globulis e tormentis suis emissis perforasse et lacerasse, eandemque navem vocatam the Henry, cum omnibus et singulis mercibus et bonis predictis in eadem, ut prefertur, oneratis, vi et hostiliter, prope promontarium vocatum promontarium Sancti Vincentii, cepisse, et ad portum Sancte Crucis in partibus Barbarie adduxisse, ibidemque omnia et singula vasa arida, fardellas, sarcinas et alias parcellas panni lintei, aliarumque mercium in eadem, ut prefertur, oneratarum, necnon omnia et singula bona, res, et rerum species in schedula presentibus annexa mentionata, ex eadem navi vocata the Henry abstraxisse et eripuisse, ac de eisdem ad libitum suum disposuisse, eandemque navem vocatam the Henry sub potestate sua per octo septimanas tenuisse et habuisse; Dictaque bona, res, et rerum species in dicta schedula presentibus, ut prefertur, annexa mentionata, fuisse et esse, tempore capture eorundem, respective valorum in eadem schedula etiam mentionatorum et expressorum; Dictosque Johannem Carrill et Willelmum de la Veut ratione capture navis predicte vocate the Henry, ceterorumque premissorum per prefatum Richardum Cowper et socios, ut prefertur, factorum non potuisse cum dictis pannis linteis aliisque mercibus ad portum de St. Lucar appellere, nec viagium piscatorium predictum perficere, seu pisces apud terram noviter inventam, Anglice dictam Newfoundland, capere, sed lucrum, commodum, et emolumentum in ea parte facere, omnesque

denariorum summas in preparatione dicte navis vocate the Henry pro viagio predicto ut prefertur erogatas et impensas amisisse, prefatumque Richardum Cowper ad restituendum prefatis Johanni Carrill et Willelmo de la Veute, seu parti sue, dicta bona, res, et rerum species, in dicta schedula presentibus, ut prefertur, annexa mentionata, seu eorum justum valorem, necnon ad solvendum seu satisfaciendum eisdem Johanni et Willelmo, seu parti sue, pro naulo centum quadraginta dictarum parcellarum dictorum ducentorum quinquaginta septem vasorum aridorum, fardellarum, ceterarumque parcellarum ut prefertur in dicta navi oneratorum et ex ea ereptorum, recusasse et remisisse, pronunciamus, decernimus, et declaramus. Ideoque prefatum Richardum Cowper tam ad restituendum prefatis Johanni Carrill et Willelmo de la Veut, seu eorum parti, omnia et singula bona, res, et rerum species in schedula presentibus, ut prefertur, annexa mentionata, si extent, vel aliter ad solvendum seu solvi faciendum eisdem Johanni et Willelmo, seu eorum parti, summam centum septuaginta duarum librarum et 18 solidorum legalis monete Anglie pro vero valore earundem ; necnon ad solvendum eisdem Johanni et Willelmo, seu parti sue, summam octoginta novem librarum et octo solidorum monete Anglie predictae pro naulo centum quadraginta duarum parcellarum dictorum ducentorum quinquaginta septem vasium aridorum, fardellarum, sarcinarum, et cistarum, pannis linteis et aliis mercibus predictis, ut prefertur, impletarum in nave predicta vocata the Henry, ut prefertur, impositarum et ex eadem per eundem Cowper etiam, ut prefertur, ablatarum et extractarum, cogendum et compellendum fore debere pronunciamus, decernimus, et declaramus ; Eundemque Richardum Cowper in eisdem respective summis omnibus ac in expensis . . . [*condemnation in common form*].

Will. Ferrand.

JUL. CAESAR.

1603. Sentence for restitution of goods wrongfully captured, with payment of freight.—*Adm. Ct. Libels* 69, No. 14.¹

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare that the plaintiffs, whose names are set forth in the schedule annexed to these presents, in the years and months pleaded were, and now are, Frenchmen, subjects of the King of France, or are allies and friends of our lady the Queen and of her subjects, [*after reciting the loading of the goods in the Henri and her capture by Cowper as above, p. 335, the sentence proceeds :*] And that the same goods were, and now are, by our authority² sequestrated in the hands of Owen Jennings, Mark James, Richard Janvie, Edmund Apsdem, and George Freeman, gentlemen, and [there] remained and now are under sequestration, marked with the marks and signs with which they were respectively marked at the time the Henri was loaded and when she was captured by the aforesaid Richard Cowper. Therefore, we pronounce, decree, and declare, that the aforesaid Lawrence Hulle, and other the plaintiffs, ought to be put into possession of all and singular the said goods and other things, marked as stated in the schedule hereto, and now in sequestration as aforesaid, and that the same goods and things ought to be, and that

¹ *Libels* 70, Nos. 196, 220, 223, 275, 277 are similar sentences for restitution of French and German goods.

² These goods had been brought by Cowper to Portsmouth. For the libel, see *Adm. Ct. Libels* 68, No. 18.

they be, restored to the plaintiffs ; And by this our definitive sentence [*in common form*] we restore the same [to the said Hulle and other the plaintiffs] they first paying the freight that is due for the carriage thereof.

Willm. Ferrand.

JUL. CAESAR.

1603. Proclamation as to captures made after the death of Elizabeth.—*S.P. Dom. James I*, Vol. lxxiii, f. 23.

Although we have made it known by public edict that, at our entering into these kingdomes of England and Ireland, we stood, as we still doe, in good amitie and friendship with all princes in Christendome, and therefore are carefully to provide, as much as in us lieth, that none of them, or their subjects, should by anie hostile action bee endamaged in their persons, territories, or goods, by any of our subjects, either by land or sea ; Yet we are not ignorant that our late dear sister, the late Queene of England, had of long time warres with the King of Spaine, and during that time gave licences and commissions to divers of her and our now subjects, to set out and furnish to sea at their charges divers ships warlikely appointed, for the surprizing and taking of the said King's subjects and goods, and for the enjoying of the same, being taken and brought home, as lawfull prize. By virtue of which licenses and commissions, our said subjects, in the zeale and affection which they bare to the good of their countrey, in the annoyance and spoile of the publike enemy of this state at that time, and in maintenance and employment of the shipping

and mariners of England, otherwise thought scant of traffique at that time, and not sufficiently set on worke, did furnish out to the seas divers ships warlikely appoynted, to their exceeding charge, upon confidence to enjoy what goods soever they should take during the said voyage belonging to the King of Spaine, or to any of his subjects, according to the tenour of their severall commissions. And whereas divers of them, sithence our comming by the grace and favour of God to the imperiall crowne of these our realmes and dominions, have taken, by colour of the said commissions, ships and goods belonging to the subjects of the King of Spain, not knowing of any alteration or discontinuance of the former warre between Spaine and England, and thereby are like to be extremely hindred, or rather, many of them, undone, (being a great number of our good and serviceable subjects), if they may not be suffered to enjoy such goods as they have so taken, before any notice given unto them of the discontinuance of the said late warre; We, in our princely condition, having, (above all things), tender care of the good estate of our loving and duetifull subjects, and willing to give encouragement to all others hereafter, in time of warres, to shew the forwardnesse in venturing their lives and goods for the weakening of the publicke enemye, and benefiting this their countrey, Have thought good to signifie to all men by these presents, that our wil and pleasure is, that all such as have set out, or furnished to the seas, any ships of warre, by vertue of the said commissions, and not having notice of our entry into this kingdome, have at any time before the four and twentieth day of Aprill last, (which time we limitt unto all men of warre at sea, as a

sufficient space, within which they may have taken knowledge of the discontinuance of the said warre), thereby taken any ships or goods belonging to any subjects of the King of Spaine, and are already returned into any of our dominions, shall quietly enjoy the said ships and goods taken as aforesaid.

And further, our will and pleasure is, that whatsoever ships or goods, belonging to any subject of the said King of Spaine, hath been or shall be taken at sea or land by any of our subjects by colour of any commission whatsoever after the said twenty fourth day of Aprill last, the same shall be forthwith sequestered from the takers, to the use of the true proprietaries, and restored unto them upon the first claimes and proofes of their propertie, without any long or chargeable suit of law.

And further, wee will and command that all such our men of warre as now be at sea, having no sufficient commission as aforesaid, and have taken, or shall goe to sea hereafter, and shall take any ships or goods of any subject of any prince in league and amitie with us, shall be reputed and taken as pirates, and both they and all their accessaries, maintainers, comforters, abettors, and partakers, shall suffer death as pirates, and accessarie to piracie, with confiscation of all their lands and goods, according to the ancient lawes of this realme.

Commanding all our officers of the Admiraltie to see our commandement severely executed, and commanding all others officers of our kingdomes and dominions, whom it may concern, to give their best assistance to the officers of the Admiraltie, for the better execution of our said commandement, as they and every of them

failing therein will answer to the contrary at their uttermost perils.

Given at our mannour of Greenwich, the
23 day of June, in the first yeere of our
reign of England, France, and Ireland,
and in the sixe and thirtieth of Scotland,
Anno Domini 1603.

1604. No peace south of the Line.

Shortly before 1605 a Dutch ship captured, south of the tropics, a Venetian ship trading with a licence from Spain. Although there was no war between Holland and Venice, the capture was held in Holland to be good prize, because, by taking a licence from Spain for a trade which she denied to others, the Venetian made herself liable to be treated as an ally of Spain, a power then at war with Holland. 'It was universally known that Spain claimed to treat as hostile all ships trading south of the tropic of Cancer' writes the Venetian Secretary to the Doge and Senate (*S.P. Foreign, Venetian, Calendar* 1603-7, p. 129).

1604. Sentence for payment of the shares
of three of the crew of one of two ships,
that were cruising in company, in a prize
captured whilst they were taking to
England a prize previously captured.—
Adm. Ct. Libels 70, No. 188.

. . . . Therefore we, Julius Caesar, . . . [*in common form*] . . . pronounce, decree, and declare, that the abovenamed Christopher Newport, captain of the ship Neptune, and Edward Glanvill, captain of the ship Diana, in the years and months pleaded, fitted out and equipped those ships respectively with victuals, ordnance, and other necessities for a privateering voyage to

make captures, and set them forth to sea under the rule and governance of their agents ; And that they appointed the aforesaid Robert Higginson, Adrian Burt, and one Thomas Dallison, a servant of the said Thomas Bennett, at their own order, and at their own desire, and with their own consent, to be seamen or mariners in the said ship the Diana ; And that they, Newport and Glanvill, the aforesaid captains, in the years and months aforesaid, with the aid and assistance of Higginson, Burt, and Dallison, and of the aforesaid seamen, attacked, overpowered, captured, and brought into their own power, certain Spanish ships ; And that the captains and seamen of the Neptune and the Diana, upon the high sea, agreed and engaged between themselves that the captured ships and goods should be sent to England, and that the Diana and her crew should accompany them to England, and that Newport and his company, in the Neptune, having previously taken some stores out of the Diana, should remain for a time in the [West] Indian seas to make [further] captures ; and it was a term of the contract that, whatever ships and goods should be thenceforth captured by Newport and his company, should be shared between the captains, mariners, and soldiers of the Neptune and the Diana respectively ; And that, after the Diana had sailed for England, Newport and his company of seamen and soldiers, in the Neptune, captured on the high sea as lawful prize another Spanish ship, laden with indigo, hides, and other things and wares, and brought her to England ; And that the true value of the Spanish ships so captured as aforesaid, and of the goods, things, wares, and merchandise in them, at the time of their capture amounted to a sum of lawful

English money sufficient to meet the claims of the plaintiffs in regard to their shares and parts hereunder mentioned ; And that after the captures the said Higginson, Burt, and Dallison, Bennett's servant, according to the orders of Newport, sailed in the prize first captured, and the wages, shares, and parts, due to them respectively, under the aforesaid agreement, amounted to £12 10s. for Higginson, £12 10s. for Burt, and £9 7s. 2*d.* for Dallison ; And that the aforesaid Newport took into his own possession, and disposed of at his will, all the ships and goods so captured as aforesaid, and in particular the wages and shares due to Burt and Bennett. Therefore, we pronounce, decree, and declare, that the aforesaid Christopher Newport ought of right to be condemned to pay and satisfy to the aforesaid Robert Higginson, Adrian Burt, and Thomas Bennett the aforesaid wages, and other moneys due to them by reason of the premises,
[and in costs].

Jno. Amye.

JUL. CAESAR.

. . . Idcirco Nos, Julius Caesar, . . . [*in common form*] . . . prenomiatum Christoferum Newport, capitaneum navis the Neptune, ac Edwardum Glanvill, capitaneum navis the Diana, annis et mensibus in hac parte libellatis, easdem respective naves pro viagio predatorio ad predas capiendas victualibus, armamentis, aliisque necessariis, instruxisse et preparasse, ac ad mare sub suorum regimine et gubernatione emisisse ; Prefatosque Robertum Higginson, Adrianum Burt, et quendam Thomam Dallison, famulum antedicti Thome Bennett, et de et cum mandato, voluntate, et consensu suis, nautas sive marinarios dicte navis the Diana constituisse ; Eosdemque Christoferum Newporte et Edwardum Glanvill, capitaneos antedictos, annis et mensibus

predictis, naves quasdam Hispanicas bonis, rebus, mercibus, et mercimoniis impletas ope et auxilio prefatorum Roberti Higginson, Adriani Burt, et Thome Dallison, famuli dicti Thome Bennett, nautarumque predictorum, aggressisse, debellasse, cepisse, et in potestatem suam redegissee; Capitaneosque et nautas navium respective predictarum, super alto mari, inter se pepigisse et convertisse quod naves et bona per eos, ut prefertur, capta, in Angliam destinarentur, et quod navis the Diana, et naute ejusdem, unacum eisdem in Angliam navigarent, et quod dictus Christoferus Newport, et ejus naute, cum navi the Neptune, (receptis prius victualibus e navi the Diana), in partibus Indie pro prediis capiendis ad tempus permanerent, ac ex pacto predicto inter eos conventum fuisse et esse, quod quecunque naves et bona per dictum Newport et socios extunc caperentur inter duos capitaneos, nautas, et milites, navium respective predictarum dividerentur pronuntiamus, decernimus, et declaramus; Postque discessum dicte navis the Diana ad partes Anglie, cum prediis predictis dictum Newporte et ejus nautas et milites cum prefata navi the Neptune aliam navem Hispanicam indico, tergoribus, aliisque rebus et mercibus oneratam, uti predam legitimam, super alto mari, cepisse, et ad partes Anglie adduxisse; Necnon verum valorem dictarum navium Hispanicarum sic, ut prefertur, captarum, ac bonorum, rerum, mercium et mercimoniorum in eisdem tempore capture ejusdem existentium, ad summam sive valorem sufficientem ad solvendum in hac causa agentium juxta ratam et proportionem in ea parte conventam ac inferius limitatam et adjudicatam, Anglice in regard of their shares and partes hereunder mentioned, legalis monete Anglie extendisse; Postque capturam dictarum navium Hispanicarum, ac bonorum in eisdem existentium, prefatum Christoferum Newport¹ antedictos Robertum Higginson, Adrianum Burt, et Thomam Dallison, famulum dicti Thome Bennett, in navi Hispanica primo, ut prefertur, capta, (juxta mandatum Christoferi Newport predicti),

¹ These words seem to be superfluous.

navigasse, omniaque et singula salaria, partes, sive portiones, ad prefatum Robertum Higgenson, Adrianum Burt, et Thomam Bennett, ratione premissorum debitas, ad separales summas, viz. pro dicto Higgenson xij^{li} x^s, pro dicto Adriano Burt xij^{li} x^s, pro dicto Thoma Dallison ix^{li} vij^s ij^d, legalis monete Anglie, extendisse et extendere; Prefatumque Christoferum Newport, capitaneum antedictum, omnia et singula naves et bona sic ut prefertur capta, et presertim omnia et singula salaria et alia ad dictos Adrianum Burt et Thomam Bennet spectantia, in possessionem suam recepisse et ad libitum suum disposuisse. Prefatum igitur Christoferum Newport ad solvendum satisfaciendum et restituendum prefato Roberto Higgenson, Adriano Burt, et Thome Bennett, salaria predicta, aliaque eis in hac parte ratione premissorum de jure debita de jure condemnandum fore debere pronunciamus, decernimus, et declaramus . . . [*condemnation of Newport in costs*].

Jno. Amye.

JUL. CAESAR.

1604. Sentence; distribution of prize; dismissing the claim of the Susan to share with the East India Company.—*Adm. Ct. Libels* 70, No. 249.

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare, that the aforesaid Sir James Lancaster, Knight, was in London duly appointed to be captain¹ of the Red Dragon, and the aforesaid John Middleton and Philip Grove to be captains of the Hector and the Ascension for a trading voyage to India, and that the aforesaid ships were by their owners and certain merchants armed and equipped with due authority to make the

¹ Redundant words are omitted; also the Latin original, which is in common form.

aforesaid voyage, and with seamen, soldiers, and all necessities ; And that the aforesaid George Spilbeck was, in the years 1601 and 1602 and in the months [*in common form*] the master of the Lamb of Veere ; And that the said captains and master, in the Straits of Malacca, in the East Indies, with their respective ships and crews, attacked, captured, and brought into their power a Portuguese ship called the St. Anthony of Goa, laden with sundry merchandise ; And that one Henry Middleton, at the time of the capture of the Portuguese ship, was master of a ship called the Susan ; And that the aforesaid Samuel Spencer and the other plaintiffs were at the same time seamen in the Susan ; and that he, Middleton, was serving as her master ; And that all the plaintiffs were hired by Sir James Lancaster and the other owners of the said ships to serve in the Susan for wages agreed upon, and not otherwise, and that, at the time of the capture of the Portuguese and of the goods in her, the aforesaid Henry Middleton and the other plaintiffs, were, all of them, sailing on board the Susan near the port of Priaman, distant some two hundred miles from the Straits of Malacca, and took no part in the capture of the Portuguese, being a long way from the place where she was captured, and that they rendered no aid or assistance to the other ships, and that, previously to the capture, they had entered into no consortship with them touching the capture of this ship and goods ; And that the Lamb of Veere was not, nor were her captain or seamen, when the English ships sailed from home, associated with them in any consortship, nor had they entered into any partnership with them in the matter of making prizes, and that, after the Red Dragon, the Hector,

and the Ascension had parted from the Susan, they happened to fall in with the Lamb, and in the absence of the Susan and her crew, entered into a consortship with the Lamb for the taking of prizes, and having so become consorts with her, attacked, captured, and reduced into her power the Portuguese ship, having [previously] parted from the Susan. And we further pronounce that the aforesaid Sir John Lancaster, Knight, John Middleton, Philip Grove, George Spilbecke, and their associates, as well as the honourable the governors and others of the East India Company, ought to be dismissed and discharged from the suit of the said Samuel Spencer, Richard Thurston, and their fellows, the seamen and soldiers of the Susan, and we dismiss and discharge them accordingly. . . . [*Silence enjoined on the plaintiffs, in common form.*]

Tho. Crompton.

JUL. CAESAR.

1605. Sentence, restoring to her Dutch owners the Hope, captured by Dunkirkers within the King's chamber, off Winterton.—*Adm. Court, Libels* 71, No. 212.

. . . . Therefore we, Sir Julius Caesar [*in common form*] pronounce, decree, and declare, that the aforesaid Cornelius Goose, Peter Welsh, and their fellows were and are owners and proprietors of the aforesaid ship, the Hope, together with the apparel, tackle, and gear belonging and appertaining to her; and whilst they were openly in quiet and lawful possession of her at Winterton aforesaid, within the ebb and flow of the sea, and within the jurisdiction of the

Admiralty of England, near to the aforesaid port, we pronounce, decree, and declare, that the said ship, being clearly within the jurisdiction and protection of our lord the King, in what is commonly called the chamber¹ of our lord the King, was seized, carried off, and spoiled by the aforesaid Dunkirkers. Wherefore by this our definitive sentence, or this our final decree, which we pass and promulgate by these presents, we pronounce, decree, and declare, that the said ship called the Hope, so carried off as aforesaid, and now being and remaining within the jurisdiction [of the Admiralty], ought to be handed over and delivered to the said Cornelius Goose, Peter Welsh, and their fellows, her owners and proprietors, and lawful possessors, or to their party, and that possession of the said ship so carried off and spoiled should be restored to them ; and we restore [the same, accordingly].

JULIUS CAESAR.

. . . Idcirco nos, dominus Julius Caesar, . . . [*in common form*] . . . prenomiatum Cornelium Goose, Petrum Welsh, et socios, anno et mensibus in hac parte allegatis, ipsorumve uno sive aliquo, navem² predictam, the Hope, cum suis apparatibus, utensilibus, et ornamentis ad eandem spectantibus et pertinentibus, dominos, proprietarios, et legitimos possessores, fuisse et esse pronunciamus, decernimus, et declaramus, atque in

¹ Cf. a similar sentence of 1605 (*Adm. Court, Libels* 70, No. 52) describing a capture as having been made 'prope portum de Orford Ness in oris maritimis hujus regni Anglie atque infra portum sive cameram maritimam domini nostri regis predicti.' Cf. *Libels* 71, No. 142, 'prope littus cujusdam portus sive stationis vocate Sole, alias Southwold.' *Ibid.* *Libels* 89, Nos. 196, 229, is a gross case of fighting between Dunkirkers and Hollanders in the Thames.

² *Sic*, in original. The grammar is confused throughout.

possessione quieta et legitima notorie existentes apud Winterton predictam, infra fluxum et refluxum maris, et jurisdictionem Admirallitatis Anglie, et prope portum predictum, et infra jurisdictionem et protectionem domini nostri Regis, communiter appellatam cameram domini nostri Regis, notorie et quiete existent', per dictos Dunkerkanos abreptam, abductam, et spoliatam fuisse et esse, etiam pronunciamus, decernimus, et declaramus. Quocirca dictam navem vocatam the Hope, ut prefertur abductam et spoliatam, infra jurisdictionem modo existentem et remanentem, dictis Cornelio Goose, Petro Welsh, et sociis, dominis, et proprietariis, ac possessoribus legitimis, seu eorum parti, tradendam et deliberandam, eisdemque possessionem dicte navis, ut prefertur ablate et spoliata, restituendam, pronunciamus, decernimus, et declaramus, et restituimus per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

Thos. Crompton.

JUL. CAESAR.

1605. Proclamation against serving foreign princes ; fighting in ports and havens ; hovering off the coast ; ships of belligerents not to leave port within two or three tides of each other ; and against receiving pirate goods or aiding pirates.—*Patent Rolls 2 Jas. I, pt. 32.*¹

¹ There is a contemporary print of this in *S.P. Dom. Jac. I*, vol. lxxiii, f. 98. It should be compared with another proclamation, issued later in the same year (8 July 1605), generally to the same effect, but in different language and with some additions ; it is printed in Rymer xvi, 633, from *Pat. 3 Jac. I*, pt. 20, m. 39. By the later proclamation Vice-Admirals and officers at the ports are directed to stay suspicious craft until security is given for their good behaviour ; notice is given to foreign princes that their ships will be stayed if there are English seamen on board ; and they are invited

A Proclamation for revocation of Mariners from forreine Services.

Whereas, within this short time since the peace concluded betweene us and the King of Spaine and the Archdukes, our good brothers, it hath appeared unto us that many marinors and seafaring men of this Realme, having gotten a custome and habite in the tyme of Warre to make profite by spoile, doe leave their ordinarie and honeste vocation and trading in marchantly voyages, wherebie they mighte both reape convenient mayntenance, and be serviceable to their Countrie, and doe betake themselves to the service of divers forreine States under the tytle of men of warre, to have thereby occasion to continue their unlawful and ungodlie course of lyving by spoile, usinge the service of those Princes but for colour and pretexte, but in effecte making themselves commonlie no better then Pirats to robbe both our owne Subjects, their Countreymen, and the Subjectes of other Princes,

to proceed against English and other pirates, as being out of the King's protection; and the following important order against victualling or supplying war material to foreign men-of-war in English harbours is added :

‘ . . . Item that no shipping or men of warr, of what estate or condition soever, goinge forth with commyssion of reprisalls, or in any other warlike manner, to serve at seas, shall be permitted in any of His Majestie's portes, or in the members thereof, to victuall or relieve themselves with any warlike provision, thereby to enable themselves the better to any acts of hostility at sea against any of His Majestie's frends, but onelye in their retourne homewards, if they happen to come into any of His Majestie's portes, that then it shall be lawfull for them to relieve themselves with victualls, or other necessities, to serve them onelye for the space of twenty daies, and no more, which is a proportion reasonable to use in trade of merchandise.’

our neighbours, goinge in their honeste trade of merchandize ; By which courses they doe ympeach the quiet trafficke of Nations one with other, leave our Realme unfurnished of men of their sort, if wee should have cause to use them, and inure themselves to an ympious disposition of lyving by rapine and evill meanes, although by reason of the universall peace wherein we are at this present with all Christian Princes and States, they may have a more plentifull employment in an orderlie and lawfull navigation then at any tyme of late yeeres they could have had ; We have thought it necessarie in tyme to prevent the spreadinge of such a corruption amongste our Subjects of that sort and callinge, whereby our nation will be so much slandered, and our Realme so greatlie disadvantaged ; Wherefore We doe will and command all Masters of shippes, Pilates, Mariners, and all other sorte of seafaringe men, whoe nowe are in the martiall service of any forraine States, that they doe presently retorne home into their owne Countrey, and leave all such forraine services, and betake themselves to their vocation in the lawfull course of merchandize, and other orderlie navigation, upon such paynes and punishments as by the Lawes of our Realme may be inflicted upon them, if after this declaration of our pleasure, they shall not obeye ; And we doe also upon the same paynes straightlie chardge and command all our Subjects of that profession, that none of them shall from hencefoorth take Letters of Marke or Reprisall, nor serve under any that hath such letters of Marke or Reprisall, from any foraine Prince or State whatsoever, nor otherwise employ themselves in any warlike services of any foraine State upon the Sea, without speciall lycense

obtained from our selfe, or from our highe Admirall, as they will answere the contrarie at their perils.

And forasmuch as although wee are in peace with all Christian Princes and States, yett during the contynewance of the warre betweene the King of Spayne and the Archdukes on the one side, and the United Provinces of the Low Countries on the other side, manie chaunces may happen, as some already have happened, of difficulte interpretation to our Officers and Subjectes howe to behave themselves in such cases, unless they be explainned unto them: We have thought it conveniente to make an open declaration how our said Officers and Subjects shall demeane themselves towards the Subjects, aswell of the King of Spayne and Archdukes, as also of the States united in cases following:

Firste, our pleasure is, That within our Portes, Havens, Rodes, Creekes, or other places of our Dominion, or so neere to any of our sayd Portes or havens as may bee reasonable construed to bee within that tytle, limitt, or Precinct, there shall be noe force, violence, surprise, or offence suffered to be done, eyther from Man of Warre to Man of Warre, or Man of Warre to Merchant, or Merchante to Merchante of eyther partie, but that all of what Nation soever, soe longe as they shall bee within those our Portes and places of our jurisdiction, or where our Officers may prohibite violence, shall bee understood to be under our protection to be ordered by course of Justice, and be at peace each with other.

And whereas some of the men of Warre of ech syde have used of late, and it is lyke will use in tyme to come, though not to come within our Portes, because there they know wee can

restrayn violence, yett to hover and hange about the skirtes of our Portes somewhat to Seaboard, but yett so neere our coastes and the entrie of our Harbours, as in reason is to be construed to be within the extente of the same, and there to await the Merchant of the adverse parte, and doe seaze and take them at their goinge out of our Portes, which is all one in a manner as if they tooke them within our Portes, and will be no lesse hinderance to the trade of Marchants ; Our pleasure therefore and commandement is to all our Officers and Subjects by Sea and Land, That they shall prohibite, as much as in them lyeth, all such hovering of Men of Warre of eyther side soe neere the entrie of any of our Havens or our Coastes, and that they shall rescue and succour all Marchants and others that shall fall within the daunger of any such as shall awayt our Coastes in so neere places, to the hinderance of Trade and Trafficke outward and homeward from and to our Kingdomes. And for the better instructions of our Officers in the execution of these two Articles, Wee have caused to be sente to them platts¹ of those lymits within which wee are resolved that their orders shalbe observed.

And where it hath happened, and is lyke to doe often, that a shippe of warre of the one side may come into some of our Portes where there shall bee a merchant of the other side : In such case, for the benefitt and preservation of the lawfull trade of Merchantes, Our pleasure is, that all Merchantes ships, if they will require it,

¹ This plat is fully described, and apparently reproduced, in Selden's *Mare Clausum*, cap. xxii. (Ed. 1635, p. 236). A facsimile is at Queen's College, Oxford. The headlands and King's chambers are described in *S.P. Dom. Jas. I*, vol. xiii, No. 4.

shalbe suffred to departe out of the said Porte twoe or three Tydes before the Man of Warre, to the yntent that the Marchant may bee free from the pursuite of his adversarie. And yf it so happen that any Shippe or shippes of Warre of thone side doe find any shippe or shippes of warre of thother syde in any our Portes or Roades aforesaid, like as our pleasure is that, during their abod there, all violence be foreborne ; Soe doe wee lykewise command our saide Officers and Subjectes, both on Sea and Land, That the ship of warre which came in firste bee suffred to departe a Tyde or two before thother which came in laste, and that for soe long tyme they shall staye and detaine any ship of warre that would offer to pursue another out of any our Ports immediatelie.

And where wee are enformed that notwithstandinge the severitie of our lawes against receivors of pirates goodes, many of our Officers of our Ports, and other inhabitants within and neere unto them, doe receive daylie Goodes brought in from Sea by such as are indeed Pirates, if they and the getting of their Goods were well examined ; We doe hereby admonishe them all to avoyd the receaving or buying of any goods from Sea, coming not in to the Realme by lawful course of Marchandise ; for that they shall fynde wee are resolved so to prevent all occasion and encouragemente of Pirats to bee used by any our Subjectes, as wee will cause our lawes to bee fullie executed accordinge to their trewe meaninge, both againste Pirats, and all receavors and abettors of them and their goodes.

Given at Thetford the firste day of March
in the second yeere of our Raigne of Great
Britaine.

1603-1625. *Prize jurisdiction and Prohibitions.*

The prize jurisdiction of the Admiralty was not unquestioned throughout the reigns of Elizabeth and James. In 1580 a prohibition issued in a case of 'spoil' or piracy, upon a (false) suggestion that it was committed at Lynn, within the body of a county, the practice of the common law courts with regard to fictitious venues allowing this; but in this case a consultation was awarded by Wray, C.J. In 1596 Admiralty proceedings upon a recognisance, probably for the good behaviour of a privateer, were stayed by a prohibition. In 1599, and again in 1601, prohibitions issued in five prize cases, but Anderson, C.J., awarded consultations in all of them. Upon the appointment of Sir Edward Coke to the Chief Justiceship in 1606, prohibitions to the Admiralty became very frequent.¹ He was extremely hostile to the Admiralty Court, and almost every matter, not excluding prize and reprisal cases, in which it had been accustomed to exercise jurisdiction, was declared to belong to the King's courts of common law. In a case of 1610 the prohibition expressly states that all questions as to goods captured in time of war from the enemy, either on land or sea, belong to the common law and not to the Admiralty Court. In 1613 Coke was transferred to the Common Pleas, and in 1616 was removed from the bench altogether. His action in connexion with these prohibitions was probably not unconnected with his fall. The wars of Charles I. brought the Admiralty Court, particularly on its prize side, again into prominence, and no attempt appears to have been made to interfere with its jurisdiction in prize cases. The common law courts were obviously incapable of dealing with them, and since Coke's fall it has never been seriously questioned. In 1633 an agreement is said to have been come to between the

¹ A list of forty-five which issued in the first eight years of James' reign is amongst the Admiralty Court records; owing to the rearrangement which is in progress no definite reference to it can at present be given. Vulcherson *c.* Peare, *Libels* 71, No. 124, an ordinary 'spoil' suit, was stayed by prohibition after sentence had passed.

judges of the King's courts at Westminster and the judge of the Admiralty as to the limits of their respective jurisdictions, and to have been signed by them (see *Privy Council Register*, Feb. 1633). The original is not known to exist, and its existence has been denied; although prize is not expressly mentioned in it, its effect and intention clearly is to leave prize cases to be dealt with in the Admiralty, as they always have been.

It will be noticed that, during James' reign, ambassadors for friendly foreign powers were parties to suits in the Admiralty Court (see note, below). They intervened in suits already pending, or instituted suits as plaintiffs, on behalf of owners of ships belonging to the states which they represented; cf. *Adm. Ct. Libels* 75, No. 1, a sentence for restitution of goods to the Spanish Ambassador. The result was that these suits sometimes resolved themselves into disputes between two foreign powers; cf. *Libels* 75, No. 164. Protests were made against the system, but it continued into the reign of Charles I.

1606. Other judges to be associated with the judge of the Admiralty, at the request of the Spanish Ambassador.¹—*Adm. Ct. Exemplifications* 37, No. 78.

JAMES R.

Right trustie and well beloved counsellors, and trustie and well beloved, Wee greete you well. Where in a cause dependinge in our courte of Admiraltie between Botelio, a Portingall, on thone parte, and one Yong, a Hollander, con-

¹ The Spanish Ambassador was constantly suing in the Admiralty Court on behalf of his countrymen and the King of Spain (see pp. 384, 392, below), and often unsuccessfully. In 1613 he sued for goods brought to England by one Palaschi, a Turkish or Algerian pirate, who retaliated by suing him for £30,000 damages claimed in consequence of the destruction of a nest of pirates at Mamora, in Africa, by the King of Spain's fleet. This was too much for the dignity of the Ambassador, and after an angry protest he withdrew from the Court and refused to appear there again.

cerninge a shippe and goods taken by the said Hollander from the said Portingall uppon the coast of Spayne, the Spanish ambassador, seminge heretofore to be ill satisfified of the proceedings of the courte, desired some others to be joyned with you, our judge, in the hearinge and determininge of that cause, but since, beinge better informed thereof, wolde stand to the ordinary proceedinge; yet you, our judge, have desired that some might be joyned with you therein, for the manifestation both of your owne integretye and the justice of that courte in like cases. Wee have, therefore, thought good to require you, to whome theis our letters are addressed, uppon conference with our judge of that courte, to agree of tyme and place where the cause shalbe heard; and then joyntly togeather, or any three or two of you joyned with the judge, shall proceede to heare and determine of the same. And in the meanetime our pleasure is that you, our Judge, forbear any other proceedinges therein.

Given under our signet at our mannor of Greenwich the eleaventh day of May in the third yeare of our reigne of Great Brittain France and Ireland.

To our right trustie well beloved counsellors Sir John Popham, Knight, our Chief Justice of England, and to our trustie and well beloved Sir Thomas Fleminge, Knight, Chief Baron of our Exchequer, Sir Julius Cesar, Knight, Judge of our High Court of the Admiralty, Sir Daniell Dun, Knight, one of the Masters of our Requests, and Doctor Swale, or any three or two of them, whereof the said Sir Julius Cesar to be one.

1606. Sentence condemning the captain of the Crane of Amsterdam in £1480 damages for capturing the St. Anne, Dunkirker, in Harwich harbour.¹—*Adm. Court, Libels* 71, No. 154.

. . . . Therefore we, Julius Caesar, [*in common form*] pronounce, decree, and declare, that the aforesaid Laurentius de Nyellis in the year 1605 was owner of the ship of war of Dunkirk called the St. Anne, and that under lawful authority first obtained in that behalf, he at his own expense fitted out and armed the same ship with gear and furniture, a captain, seamen, soldiers, guns, provisions, and all other things fit and necessary for war, and sent and set her forth, so fitted out and armed, to sea ; and that he appointed, created, and sent and set forth to sea one George Matthison as captain of the said ship, and about 36 soldiers and mariners to serve in the said expedition ; and that the said captain and mariners on board the said ship, with the

¹ Execution of the sentence was stayed until the King's pleasure should be declared ; *Historical MSS. Commission, 1899 Report, Montagu MSS.* i, 60. In 1552 a foreigner's prize was brought into Harwich and sold ; the purchaser was ordered not to pay for her until the seller had proved that she was lawfully captured ; *Acts P.C.* 8 Aug. 1552. In *Lansd. MSS.* 139, ff. 112 seq., are opinions of Alberic Gentilis and Sir Thos. Crompton, Judge of the Admiralty, on the question whether a foreign belligerent's (Dutch) prize, brought into an English harbour after the termination of the war with Spain, was the property of the captor, or whether, by the law of England, she ought to be restored to her original owners. The former thought that she was free, the latter not.

guns, provisions, and other things in her, on or about the 10th or 12th day of December, in the year of the Lord 1605 (English style), put into the port or harbour of Harwich, in this realm of England, and there, quite close to the shore of the said port or harbour, whilst under the protection of our lord the King of England, and within the jurisdiction of his high court of Admiralty of England, remained and lay at anchor for some time after coming into port ; and, further, that the aforesaid Abraham Farken, at the time when the said ship called the St. Anne lay in Harwich harbour, under the protection of our lord the King as aforesaid, and before that time, was captain of the German ship of war called the Crane of Amsterdam, or some other name ; and that he and the mariners in the said ship in warlike manner and with force assaulted and attacked the said ship called the St. Anne, and the aforesaid George Matthison, her captain, and her mariners, as she so lay as aforesaid in the port or harbour of Harwich, close to the shore of the said port or harbour,¹ and at last forcibly reduced into their possession the St. Anne and all her other mariners, to the number of 33 or thereabouts, and the guns and other things in her, and by force of arms carried her off from the said port or harbour of Harwich, and took and carried her with them to the parts of Belgium, against right, and against the public proclamation of our lord the King, dated the first day of March, in the second year of his most happy reign of Great Britain, and in the year of the Lord 1604, or thereabouts, publicly given forth and made known. And we pronounce and declare that the said Laurentius de Nyellis,

¹ Here follow words, which are struck out, stating that the captain and two seamen were killed or wounded.

by reason of the aforesaid spoil, was damaged and suffers and sustains loss of capital and interest to the amount of £1480 of lawful English money ; and by this our definitive sentence, or this our final decree, which we pass and promulgate by these presents, we adjudge the same sum to him.

In Dei nomine Amen Auditis . . . per nos Julium Caesarem . . . meritis et circumstanciis cujusdam cause spoli quae coram nobis in judicio in perpetuam rei memoriam ex parte Laurentii de Nyellis Dunkerkensis contra Abrahamum Farken capitaneum navis bellicae Teutonicae vocatae *The Crane of Amsterdam* . . . pendet . . . Idcirco Nos Julius Caesar . . . prenominationum Laurentium de Nyellis . . . anno Domini millesimo sexcentesimo quinto . . . fuisse dominum . . . navis bellicae Dunkerkensis vocatae Sanctae Annae . . . Eandem navem apparatu et ornamentis atque capitaneo, nautis et militibus, tormentis, victuque, atque aliis omnibus ad usum belli aptis et necessariis, suis sumptibus, auctoritate legitima in ea parte prius obtenta, instruxisse et armasse, et sic instructam et armatam ad mare misisse et destinasse, atque quendam Georgium Matthison capitaneum dictae navis et milites sive nautas, ad numerum triginta sex aut circiter, pro expeditione sive servitio predicto in dicta nave proposuisse, constituisse, et ad mare emisisse et destinasse ; dictosque capitaneum et nautas in dicta navi existentes, unacum tormentis victuque et ceteris rebus in eadem remanentibus, in portum sive navium stationem de Harwich, in hoc regno Angliae, circiter decimum aut duodecimum diem mensis Decembris, in anno domini stilo Angliae millesimo sexcentesimo quinto, appulisse, ibidemque admodum prope littus dicti portus sive stationis sub protectione domini nostri regis Angliae, infraque jurisdictionem supremae curiae suae Admirallitatis Angliae, per aliquod tempus post appulsum suum ibidem permansisse, et ad anchoras residisse, pronunciamus, decernimus, et declaramus ;

Necnon prenomiatum Abrahamum Farken, tempore quo dicta navis vocata Sancta Anna sic ut prefertur in statione de Harwich sub protectione domini nostri regis existeret et antea, fuisse capitaneum navis bellicae Teuthonicae vocatae the Crane of Amsterdame, seu alio quocunque nomine designatae ; eumque et nautas in dicta navi existentes navem predictam vocatam Sanctam Annam, et prefatum Georgium Matthison capitaneum et nautas ejusdem sic (ut prefertur) in portu sive statione de Harwich prope littus dicti portus sive stationis bellico more et violenter invasisse et oppugnasse,¹ ac tandem dictam navem vocatam Sanctam Annam, atque ceteros omnes nautas ejusdem, numero triginta tres aut circiter, et tormenta ac cetera in eadem existentia in potestatem suam violenter redegisse, et a dicto portu sive statione de Harwich vi et armis arripuisse, et in partes Belgicas secum adduxisse et asportasse, contra jura et proclamationem publicam domini nostri Regis gerentem datum primo die mensis Martii, anno regni sui felicissimi magnae Britanniae secundo, annoque Domini millesimo sexcentesimo quarto, et circiter illud tempus publice proclamata et intimata ; Dictumque Laurentium de Nyellis ratione spoli predicti damnificatum esse, ac damnum et interesse sustinuisse et ferre, usque ad summam mille quadringentarum et octoginta librarum legalis monetae Angliae pronunciamus eciam et declaramus, dictamque summam ei adjudicamus per hanc nostram sententiam diffinitivam sive hoc nostrum finale decretum quam sive quod ferimus et promulgamus in hiis scriptis.

Oliver Lloyde.

JUL. CAESAR.

¹ Here the following words are struck out : Et ex nautis ejusdem navis Sanctae Annae duos, (sese et dictam navem defendendo), graviter et lethaliter vulnerasse, ipsumque Georgium Matthison, capitaneum, morti dedisse et occidisse. Cf. a similar sentence p. 351, above ; and others mentioned p. 352, note.

1606. Sentence for restitution; the cargo having been sold as perishable, and the proceeds left, until sentence, in the hands of the plaintiff and defendant in equal shares.—*Adm. Ct. Libels* 71, No. 2.

. . . . Therefore we, Julius Caesar,
 [*in common form*] pronounce, decree, and declare, that the aforesaid Spanish ship called the St. Anthony, and some goods, things, wares, and merchandise laden in her, were captured by the aforesaid Henry de Young and his consorts upon the high sea in the year and months pleaded, and afterwards were brought within the territory, bulwarks, and limits of this realm of England; And that the said ship, the St. Anthony, and the goods in her, at the time of the capture belonged in point of ownership and property to the aforesaid Lopez Serano Botelio, and other subjects of the King of Spain; And that she and the goods, in order to avoid their deterioration and loss by reason of the pendency of this suit, were by order of the court sold for £845 10s. 6d. of lawful English money, and the proceeds, less expenses of sale, were placed, as to one half in the hands of Lopez, and as to the other half in the hands of De Young, upon their giving bail and security to repay either half respectively to whichever of them the same money should be adjudged; And that the representatives of the plaintiffs and defendants respectively gave security and bail before us in this court to that intent. Wherefore we adjudge, decree, and declare, that the aforesaid sum of £845 10s. 6d. of lawful English money, arising and accruing from the sale of the St. Anthony and the goods, properly belongs to Lopez Serano

Botelio and others the subjects of the said King of Spain, who are the owners of the same ; and that the half, or sum of money, left as aforesaid in the hands of Lopez ought to remain in his hands, for the benefit of himself and his associates. And by this our definitive sentence [*in common form*] we further pronounce, decree, and declare that the aforesaid Henry De Young ought by due and lawful process of law to be obliged and compelled to hand, deliver, and pay the other half of the aforesaid money, which was left in his hands, amounting to £422 15s. 3d., to Lopez Serano Botelio or his representative, for the benefit of himself and his associates, being subjects of the King of Spain.

Oliver Lloyd.

JUL. CAESAR.

. . . Idcirco nos Julius Caesar . . . [*in common form*] . . . prefatam navem Hispanicam vocatam the St. Anthony, ac nonnulla bona, res, merces, et mercimonia in eadem onerata, ac per prefatum Henricum de Young, et alios ejus consortes, anno et mensibus in hac parte allegatis, super alto mari utcunque capta, intra districtus, presidia, et limites, hujus regni Anglie, postea adducta fuisse et esse ; Dictamque navem the St. Anthony, ac bona predicta in eadem ut prefertur capta, tempore capture eorundem, ad prefatum Lopez Serano Botelio, ac ad alios dicti Hispaniarum regis subditos in re eorum dominii, seu quasi, proprie spectasse et pertinuisse pronunciamus, decernimus, et declaramus ; Necnon ipsam navem the St. Anthony, ac bona predicta in eadem ut prefertur adducta, (ne litis hujusmodi occasione penditis indiscusse bonitate aut precio perierent), deductis prius expensis, pro summa octagintarum quadraginta quinque librarum, decem solidorum, et sex denariorum legalis monete Anglie, auctoritate hujus curie, vendita fuisse et esse, pecuniamque, sive summam pecunie, ex dictorum navis the St. Anthony, et bonorum predictorum, venditione, ut prefertur, redactam et provenientem, viz.,

unam medietatem ejusdem pecunie, in manibus partis prefati Lopez predicti,¹ et alteram medietatem in manibus prefati Henrici de Young, sub eorum respectivis cautionibus fidejussoriis ad restituendum utcunque medietatem dicte pecunie cuicunque auctoritate hujus curie dicta pecunia adjudicata fuerit respective, depositam fuisse et esse, dictasque partes eorum respective cautionem fidejussoriam coram nobis in hac curia ad dictum effectum dedisse et interposuisse, pronunciamus decernimus et declaramus. Quocirca prefatam summam 845 librarum, 10 solidorum, et sex denariorum legalis monete Anglie predictae, ex predictae navis the St. Anthony et bonorum predictorum venditione ut prefertur redactam et proveniente ad prefatum Lopez Serano Botelio, ac alios dicti Hispaniarum regis subditos, dicte navis the St. Anthony et bonorum predictorum proprietarios debite spectasse et spectare adjudicamus, decernimus et declaramus; prefatamque medietatem, sive pecunie summam, in manibus prefati Lopez, ut prefertur, depositam secum in usum suum et sociorum remanere debere etiam adjudicamus, decernimus et declaramus; Necnon prefatum Henricum de Young ad tradendum, deliberandum, et solvendum, alteram medietatem predictae pecunie in manibus suis, ut prefertur, depositam, ad summam quadringentarum viginti duarum librarum 15^s. et 3^d. legalis monete Anglie extendentem, prefato Lopez Serano Botelio, seu parti sue, in usum suum et sociorum predictorum Hispaniarum regis subditorum debite et per legitima juris remedia cogendum et compellendum fore debere etiam pronunciamus, decernimus, et declaramus per hanc nostram sententiam diffinitivam . . . [*in common form*].

Oliver Lloyd.

JUL. CAESAR.

¹ *Sic.*

1606. First decree¹ condemning to the Lord Admiral pirate goods.--*Adm. Ct. Libels* 71, No. 88.

In the name of God, Amen. Before you, the venerable and illustrious Sir Thomas Crompton,² Knight, the representative³ of Charles Earl of Nottingham [*in common form*] propounds: That, in the months of June and July, in the present year of our Lord 1606, the aforesaid Simon Phage, in a ship called the Why Not I, with other pirates and malefactors, piratically and feloniously assembled for the capture of prizes and spoil, on the high sea, near the isles of Bayonne, within the jurisdiction of the Admiralty of England, with force and arms, upon the high sea, near the isles of Bayonne, piratically and feloniously invaded, boarded, broke, and entered a certain French ship, and upon the commander and master of the same ship made an assault and affray, beat and evilly entreated him, and captured, robbed, spoiled, took and carried away out of the said ship certain goods, things, wares, and merchandise, belonging to certain merchants not known; And that the said Simon Phage, since the committing and perpetrating of the aforesaid piracy by him and his fellows, was, according to the laws and custom of the said high court of the Admiralty of England, and

¹ The passing of the decree was endorsed by the Registrar upon this document, which is, in fact, a pleading. Owing to its length and prolixity the Latin original has not been printed; a full form of 'articulus ex primo decreto' is in *Selden Soc.* Ser. vi. 38.

² Judge of the Admiralty, in succession to Sir Julius Caesar, from 1605 to 1608.

³ *Pars* in original; the proctor or advocate.

according to the laws and statutes of this realm of England, indicted of and for the aforesaid piracy, and was tried and convicted ; And that, at the time of his indictment, trial, and conviction, some goods, things, wares, and merchandise, and particularly a sum of £370 of lawful English money, in the hands of the aforesaid Abraham Colmer, belonged to him, Simon Phage ; And that the said goods and money, goods, rights, and debts owing and belonging to the aforesaid Phage at the time of his indictment, trial, and conviction, by reason of his conviction, rightly belonged to the most honourable, the lord high Admiral of England, in virtue of his office, and also under the terms of the letters patent in that behalf granted to him by the Queen's Majesty, and that the same ought to be paid to him¹ ; And that he, Abraham Colmer, has oftentimes been urgently required and requested, on behalf of the most honourable the lord high Admiral of England, to pay and satisfy to him the said sum of £370, out of the goods and moneys of him, Simon Phage, now remaining in his hands, or else to make due composition with him touching the same, but he [Page] has objected and refused, and still objects and refuses, to do either the one or the other. Wherefore the aforesaid the lord high Admiral of England, having no other hope of recovering the said sum of £370 in the hands of the said Abraham Colmer, except by arrest of the same, has caused, obtained, and procured the same sum of £370 of lawful English money to be arrested within the jurisdiction of the Admiralty of England by warrant of this

¹ The Lord Admiral also claimed privateers that abused their commissions and spoiled friends ; see a sentence of 1602 condemning the *Diamond* and the *Endeavour*, *Selden Soc.* xi, 204.

court duly obtained in that behalf, and [has caused] all and singular those having, or pretending to have, right or interest in the said £370, to be duly, lawfully, and peremptorily cited, according to the course, style, and custom, of the high court of Admiralty in such case used and observed, to appear before you, the lord judge aforesaid, upon a certain day, and at a certain hour, and place, duly named, and in that behalf suitable, to make lawful answer to the aforesaid, the most honourable the lord high Admiral, in a civil and maritime^m cause, touching their alleged interest in the premises. And they, having been so cited as aforesaid . . . [*have made default of appearance; prayer for condemnation of the money and goods in common form*].

Jo. Hone.¹

1607. Nottingham to the judge of the Admiralty as to French moneys in the hands of Dutch pirates.—*Adm. Ct. Exemplifications* 37, No. 151.

SIR THOMAS CROMPTON.

The French Ambassador haeth bin earnest with me on the behalf of the French merchaunte which layeth claime to the mounyes taken from the Dutchmen, and remaininge in Mr. Howell's hands, that it might bee restored to them; which I have bin contented to yeald unto, hee acknoweledgeinge that the same proceedeth of my guift, and not of any right the French have thereunto. Wherefore I would praye you to cawse a warrant to be drawne under the Seal of the office, for the strengtheninge of which they shall have my letter to commaund

¹ The proctor or advocate.

Howell to deliver the same unto the bearer. For which this shalbe sufficyent to authorise your doeinge. From the Courte the 19 day of July 1607
 your verie loveing friende
 NOTINGHAM.

I pray you let it be recorded that it is of my guifte and of noe right that the French have to it.

1608. Sentence for restitution of Venetian goods captured by Ward, the pirate, and bought by the defendant.—*Adm. Ct. Libels* 73, No. 7.¹

. . . . Therefore we, Thomas Crompton,
 [*in common form*] after long deliberation before our most serene lord, James, by the grace

¹ The Latin original of the sentence is in common form. Another sentence, of even date with this, in another suit (Justiniano (Venetian Ambassador) c. Brooke, *Libels* 73, No. 176) condemns the defendant to restore or pay for other goods spoiled from the Reinera Soderina and brought to England in the Seraphim. In that case a prohibition has issued on 11 June 1608, which appears to have been in force when the sentence passed; possibly, under pressure from the King, it had been withdrawn, but no record of a consultation having been awarded has been found. There was an appeal in this case, and the sentence of the Admiralty appears to have been reversed or varied, the purchase by the English merchants being held by the Delegates to have been *bona fide*. But the sentence is in such a dilapidated state that it is impossible to state its exact meaning or effect; *Delegates Sentences* 4. It is stated that in these cases the King was on the side of the Venetian owners, and the Admiralty officials strongly against them. Perhaps this accounts for the unusual preamble to the sentence. Ward's practice was to take his booty to Algiers and sell it to the Bey, or other Turks there, who resold it to English merchants. The *Calendar of S.P. Venice*, 1608–1613, contains many references to Ward and the Soderina.

of God King of England, Scotland, France, and Ireland, Defender of the Faith, &c., and before the most honourable the lords of his Privy Council¹ pronounce, decree, and declare, that all and singular the aforesaid goods, things, wares, and merchandise mentioned in the aforesaid schedule annexed [to these presents], (which schedule we take, and desire to be taken, as here read and inserted) and brought [to England] in the Husband, from Barbary, as aforesaid, were, since the 30th day of September, 1603, captured, robbed, and spoiled, by one John Ward, and other pirates and sea rovers, accomplices of his, from a Venetian ship called the Reinera Soderina ; And that the said goods, at the time of the aforesaid capture and spoil, belonged to Venetians ; And that the same Venetians were spoiled of the said goods by pirates and sea rovers ; And we further pronounce, decree, and declare, that the said goods, after and since the aforesaid capture and spoil, came to the hands of James and John Powntis in foreign parts and within the ebb and flow of the sea, and thereupon were brought in the Husband to England. Wherefore we adjudge, decree, and declare, that the said goods, things, wares, and merchandise, that have been freed from the sequestration put upon them by this court, and delivered, as aforesaid, to James and John Powntis and their associates, and are specified in the said schedule annexed, if they are in existence, be delivered and restored by the Powntis' and their associates to the lord ambassador aforesaid, for the use of Jeronimus Vendremeni, Leo Strozzi, John Vendremeni, and John Salvetti, and other the Venetian merchants and subjects, to whom they belonged at the time

¹ This is unusual ; redundant words are omitted.

of their capture and spoil, together with the sum of £300 of lawful English money, representing the value of some of the same goods that were brought from Dartmouth to or near to London, and that, if the said goods are no longer in existence, their true value according to the appraisement of this court mentioned in the said schedule be paid by the Powntis' to the ambassador, the two sums together amounting to £2826 13s. And we condemn them, James and John Powntis, and their associates, in the said goods, things, wares, and merchandise, if they are in existence, and if not, in their true value according to the aforesaid appraisement, and also in the said sum of £300, the value of the goods brought from Dartmouth to London, the whole amounting to the sum of £2826 13s. And by this our definitive sentence [*in common form*] we pronounce, decree, and declare, that they, James and John Powntis, ought to be obliged and compelled to deliver, restore, or pay to the aforesaid lord ambassador the sum of £2826 13s., the value of the said goods, for the use of Jeronimo Vendremini, Leo Strozzi, John Vendremini, and John Salvetti, merchants, and other the aforesaid subjects of the republic of Venice.

Ny. Stywarde.

THO. CROMPTON.

Ric. Trevor.

1609. Appointment of Sir Henry Middleton to be general of three ships sent out by the East India Company, with power to use force in defence of himself.¹—*Patent Rolls* 7 *Jac. I*, pt. 1.

[*After the appointment, with power to use martial law, the patent proceeds:*] And forasmuch as att this present tyme wee are in amyty with all Christian Princes, and are unwilling that anie our subjectes should gyve occasion of breach or hinderance thereof towards anie our confederates freinds or allies ; And because wee are not ignorant of the emulation and envie which doth accompany the discovery of cuntryes and trades, and of the quarrells and contentions which doe many tymes fall owte betwene the subjectes of divers princes when they meete the one with the other in forreigne and farre remote countries in prosecuting the course of their discoveries, and being desirous that our subjectes should forbear to move or begyn any quarrell or contention upon the subjectes of our confederates, frendes; or allies, eyther in their going forth or returning, from any of theyr voyages, Wee therefore doe hereby streightly chardge and commaunde you, our servaunte Henry Middleton, Knight, and all other under your government, that neither in your voyage outward or homeward, or in any country or island, port or place, where you shall abide and come during the tyme of your being abroad, owte of our kingdomes or domynions, where you meet with any the subjectes of the King of Spayne, or of any other our confederates, frendes, or allies, or of any other nation or people,

¹ Other commissions to command East India Company's ships are printed in Rymer, xvii, 56, and xviii, 853.

theyr shippes, vessells, goods, or merchaundizes, you doe not attempte or goe aboute to sett upon, take, or surprize their persons, shippes, vessells, goodes, or merchaundizes, or offer any injury or discourtesie unto them, as you will aunswere the contrary at your uttermost perill, except you shall be by them first thereunto justly provoked or dryven, either in the juste defence of your owne persons, shippes, vessells, goodes, or merchaundizes, by any their disturbance or hinderance whatsoever, in your quyett course of trade, or for recompence or recoverie of the persons, shippes, goodes, or merchaundizes, of any subjectes that are allready in or neare the East Indies, or for any other juste cause of your defence ; In which cases soe excepted, yf you attempte, surprize, and take, the persons, shippes, and goodes, of any prince or state by whose subjectes you shall susteyne any wronge or losse in manner as aforesaid, you shall not for any such acte or actes, grounded upon the occasions above mentioned, be in daunger, or subject to the perill and penalties of our lawes ; Allwayes presupposing and so requyring you to use all possible endeavours by all meanes whatsoever to suffer no spoyle to be made of any goodes or merchaundizes, nor imbea-seling of any things whatsoever that shall bee recovered by you, but to see them safely brought home, with their bylls of lading and charter parties, to the intent that there may be restitution made by us, so soone as you shall receyve satisfaction from that state or people by whome you are damnified, of what nation soever.¹ . . .

¹ On 27 April 1624 Buckingham signed a receipt for £10,000 paid to him by the East India Company for his share of booty captured in the East, for which he was suing the Company in the Admiralty Court.

1609. Commission to Nottingham to issue commissions to Levant traders to capture pirates.—*Patent Rolls 7 Jac. I*, pt. 32, No. 5.

James by the grace of God etc. To our righte trustie and right well beloved cousin and counsellor, Charles Earl of Nottingham, High Admiral of England, Greeting. Whereas the traffique of theise our Kingdomes into other partes abroad, beinge in amytie and friendshippe with us, and especiallie into the Levante and Mediterranean seas, is growne mucche impayred, and continuallie more and more interrupted, by the number of pyrates and sea robbers, being as well of our owne unnaturall subjectes as of other nations, whiche at this presente haunte and keep the seas, infesting the passages thereof with all manner of hostilitie and spoiles, to the utter overthrowe of all mutuall trade betweene our owne subjectes and all other merchauntes straungers, being the subjectes of our freinds and allies, unles some speedie and conveniente remedie bee taken for the preventing and suppressing thereof; Wherein wee are willing to use our beste endeavoures for as much as in us lyeth; And having understoode in the meanetyme that some of our owne subjectes, being of the Companie of merchauntes trading in those Levante Seas, have undertaken at this tyme to sett forthe certaine shippes at their owne costes and chardges for the prosecuting and suppressing of such offenders, as well in these Westernne seas as within the Straighes of Gibralter, of which their purpose and intente as wee have reason to allowe and commende the same, and to give it all the

incouragemente and advauncemente that maie bee, to bringe it to a goode and successfull issue ; Soe wee will and commaunde you, and by these our letters doe give full power and authoritie unto you, to graunte and make forthe one or more commissions in our name under our Admiraltie Seale, as you shall thinke conveniente, to the maisters and commaunders of those shippes soe to bee sente forthe by our said subjectes, the merchautes of the Levante Companie, by which they maie bee warranted to doe and execute all thinges that maie tende to the furtheraunce of that service, as well for the gouvernemente of themselves as for their proceedinge against suche pyrates and robbers at sea ; And more particularlie bee authorized that, if they shall happen upon those seas to meete with anie pyratieall shipp or shippes, of what nation soever, that shall not willinglie yeelde themselves unto them, to bee tryed and proved by lawe and justice, but will defende themselves by force and violence, they shall, by all meanes possible and with all force, compell them to yeelde and submit themselves to reason and justice, althoughe it soe fall out that by fighting with them any one or more of them bee maymed, hurte, or slayne, for the resistance. And when they have yeelded themselves, either willinglie or by force, the maisters or commaunders of our said merchautes' shippes shall cause such pyratieall shippes, with all their goods and ladinge, to be broughte into some of our portes, and the men to be committed to safe custodie in the saide havens, creekes, or townes, neare adjoining, untill such tyme as they shall have answered to justice, and soe suffer the payne of our lawes for their pyracie, or else to bee acquitted thereof and lawfullie delivered.

For which purpose wee give you full power and authoritie in our name to chardge and straightly commaund all mayors, sheriffs, constables, gaylors, and other our officers, mynisters, and subjectes whatsoever, to whome in this case it maie appertaine, that they, and everie of them, bee aydinge and assisting unto the said maisters and commanders in all thinges, as they shall neede or require for our service herein to the uttermoste of their powers ; and that they keepe in safe custodie the said pyrates or persons taken for suspicion of pyracie, untill they maie bee tryed by justice, upon payne of our high displeasure and indignation, and as they will aunswere to the contrary to their uttermoste perills. And if it doe happen that the number of pyrates soe taken at sea shalbee more then the said shipps can bee well able to commaunde withoute daunger or perill to them, wee will and commaunde you to authorize them by your said commission in our name to sett them on lande where they thinke fitt or conveniente, for the easinge of their owne shipps, soe as they doe retayne the principall persons of suche offenders to be reserved for an exemplarie punishmente to our justice. Provided allwaies that such as they shall soe set on lande bee actuall pyrates, for whome there can be noe other collorable pretences alleadged. And because it will hardlie bee possible in this tyme of libertie and deceipt, when soe manie banners and collours are promiscuouslie used at sea to disguise themselves and intrapp others, to knowe which shipps are pyraticall or not, wee doe will alsoe and commaunde you to authorize the said maisters and commanders of the said our merchaunt shipps that they shall or maie examyne all shipps and vessells which they shall rencounter at sea upon

anie suspicion they shall have that they are pyratieallie appointed or bended, soe as upon the discoverie of the contrarie they offer no manner of wrong or injurie to such shippes, whereby anie juste complaynte might bee made agaynste them, the said maisters or commaunders. And in case anie such shippes, thus freindlie and lawfullie to bee examyned and enquired of, shall happen contemptuouslie to resiste, it shalbee at their owne daunger and perill, howsoever the successe shall followe thereuppon; Wherein wee require the said maisters and commaunders to bee carefull not to give anie offence, unles there bee sufficient cause, as they will aunswere to the contrarie. And these our letters, which wee have caused to bee made patentees, shalbee youre sufficient warrante and dischardge in this behalfe. In witness etc. Witness ourselfe at Westminster the fifteenth daie of December.

In pursuance of this, Nottingham issued to Thomas Crowder, captain of the Levant Company's ship, the Trinity Stapers, of 300 tons, and others, commissions to capture 'piratts and sea rovers with their shippes and goodes . . . of what nation soever.' The commissions were submitted to Nottingham, who writes to Sir Daniel Dun, judge of the Admiralty, 29 Dec. 1609, 'I have perused the commissions drawn by you for the Levant merchantes and doe like them well'; *Ad. Ct. Exemph.* 39, No. 25, 26.

1610. Nottingham to the Judge. Spanish goods to be set free, Hamburg goods to be stayed, according to the order of the Lord Treasurer.—*Adm. Ct. Libels* 74, No. 123.

Mr. Doctor Trevor, After my hartie commendations, Forasmuch as my Lord Treasurer hath gyven direction that the goods brought into

the River in two shippes of Hamborrowe, that belong as well to marchants of the Low Countryes as to the Portingalls, should be noe longer detayned, but be presently discharged ; I pray you therefore to examine the same, and soe much of the goods as of the shippes as you shall finde to belong, either to the Portingalls, or to those of the Lowe Countries, may be discharged and sett at liberty without further stay ; But what shall appeare to belong absolutely to Hamburgers must yet remayne stayed untill further order. Whereof I pray fayle not to gyve all the content you may. From Hampton Court the xxiiijth of August 1610.

(Subscribed) your very loving frend,
NOTINGHAM.

(Subscribed thus) : To my very lovinge frend Mr. Doctor Trevor, one of the judges of the Admiralty.¹

1610. Commission to Nottingham and others to try piracy.—*Patent Rolls 7 Jac. I*, pt. 27, dorse.

This commission (in Latin) is too long to be printed here. It is not known to have had any practical effect, and no record has been found of any case tried under it. The recitals state that English and foreign merchants are constantly robbed ; that in Devonshire and Cornwall pirates are harboured, victualled, and supplied ; that their number is increasing ; and that the evil must be stopped. Twelve commissioners, 'commissionarii, judices delegati, substituti, et deputati nostri,' are appointed to try summarily cases

¹ Dr. Richard Trevor was appointed to act with Sir Dan. Dun as judge in 1609. The above letter is a copy. The ships in question were the Angell Raphaell and the White Swan ; none of the goods belonged to Hamburgers.

of piracy and assisting pirates, with power to fine and imprison. Procedure is to be according to the civil and maritime laws. All other courts and judges are forbidden to deal with such matters. There is no mention of the criminal or common law, or of capital punishment. Cf. a commission of 1622 to the Earl of Middlesex, Julius Caesar, and others, to enquire into and redress spoils by the East India Company upon Spanish ships (*Pat. Rolls* 20 *Jac. I*, pt. 16, No. 7), printed in Rymer, xvii, 420.

1611. Sentence condemning the captain of H.M.S. Advantage in the value of gold captured by him from a pirate.—*Adm. Ct. Libels* 75, No. 234.¹

. . . Therefore we, Daniel Dun . . . [*in common form*] . . . pronounce, decree, and declare, that the said Oliver Piquet and his company, in the month of May, 1609, were owners, proprietors, and possessors of 8000 golden crowns of Spanish money and bullion, and of a ring of gold set with a precious stone called a diamond ; And that in the port of Lisbon they shipped the said 8000 crowns and ring of gold in a French ship called the Margarete of Morbian, with intent to have them carried from there to the port of Vannes in France ; And that one James Harris, a notorious and well-known pirate, with his accomplices, in a piratical ship, fell in with the French ship on her passage from Lisbon to Vannes, and attacked her, and piratically and with force captured her, and brought her into their own power, and taking out of her the said 8000 crowns and ring of gold, took them into their own piratical ship, and spoiled the said Oliver Piquet and his associates of the same, and afterwards carried them to Baltimore, a place on the coast of Ireland,

¹ The original Latin sentence is omitted.

whither they sailed ; And that the aforesaid James Harris and his accomplices, all and singular, who were parties to the spoil, as soon as they entered the port of Baltimore, and before they had come ashore, being on board their pirate ship, were, together with all the [said] things and sums of money, captured by the aforesaid Sir William St. John, the captain and commander of the King's ship called the *Advantage* ; And that the said Sir William St. John, in the port of Baltimore, and within the jurisdiction of the Admiralty of England, took into and has in his possession and custody the said pirate ship, and all the things and sums of money brought to Baltimore, and also the said pirates, before they landed, and, by his own confession, disposed of [the ring and money] at his will. Therefore we further pronounce, decree, and declare, that the aforesaid Sir William St. John, Knight, ought to be obliged and compelled to restore, hand, and deliver to the aforesaid Oliver Piquet and his associates the sum of £163 of Spanish money and £105 in gold so captured and spoiled as aforesaid, if it is in existence, and if not, its true value, which we assess at the sum of £268 of lawful English money ; And by this our definitive sentence . . . [*in common form*] . . . him, Sir William St. John, Knight, in the said sum of £268 . . . and in costs.

Henry Marten.¹

DANIEL DUN.

RICHARD TREVOR.

¹ The future judge.

1612. Decree, putting the Spanish Ambassador into possession of tobacco brought to England by a Spaniard, against the law of Spain.—*Adm. Ct. Libels* 75, No. 156.¹

. . . . Therefore we, Richard Trevor
[*in common form*] decree and declare that,
by reason of the aforesaid proofs and acts in the
law, the honourable the lord Alonso De Velasco,
the honourable lord ambassador aforesaid, ought,
in order to preserve the same, to be put into
possession of the aforesaid 1500 [pounds] weight
of tobacco, and of all the other goods loaded
as aforesaid by the said Gamacha, or by his
assigns or factors, for his use, in the said ship the
Little John ; And so by this our interlocutory
decree, which we pass and promulgate by these
presents, we put him into possession of the said
1500 lbs. weight of tobacco, or other quantity
as mentioned above, and of all other goods of
him, Gamacha, a subject of the aforesaid King
of the [two] Spains, laden in the aforesaid ship,
the Little John, upon his giving bail [to restore
the same] according to the usual practice in that
behalf.

Jo. Hone.

RICH. TREVOR.

. . . Idcirco Nos Richardus Trevor . . . [*in common form*] . . . premissarum probationum et actorum judicialium intuitu, memoratum honorandum virum dominum Alonso de Velasco, dominum legatum antedictum, in

¹ The claim of the Ambassador seems to have been based upon the law of Spain, by which Spaniards trading between Spanish America and England were punishable by death ; see *Ibid.* Nos. 65, 67.

possessionem antedictæ quantitatis mille et quingenta ponderum tobacco, ac cujuslibet alterius quantitatis tobacco ac aliorum bonorum quorumcunque per dictum Gamacha, ejusve assignatos vel factores in usum dicti Gamacha, in predictam navem the Little John, ut prefertur, oneratorum et adductorum, causæ¹ rei in ea parte servande, mittendum fore debere decernimus et declaramus; Sicque prefatum dominum Alonso de Velasco, dominum legatum antedictum, in possessionem antedictæ quantitatis tobacco predicti, ac alterius quantitatis, ut supra, ac aliorum bonorum quorumcunque dicti Gamacha, subditi Hispaniarum Regis predicti, in predictam navem the Little John, ut prefertur, oneratorum, sub cautione prius ex parte dicti domini legati juxta formam registri in hac parte interponenda, mittimus per hoc nostrum decretum interloquutorium, quod in hiis scriptis ferimus et promulgamus.

Jno. Hone.

RICH. TREVOR.

1612. Warrant for commission to Humphrey Slaney and others to capture pirates, on a voyage to Guinney.—*Adm. Ct. Exemplifications* 42, No. 50.

Whereas suit hath bene made unto us by Humphrey Slaney, Thomas Simons, and other merchants of London, who doe now sett forth to themselves the Joan of London, of burthen 120 tonnes, whereof is master William Mills, and also the Hopewell of London, of 60 tonnes, whereof goeth master William Guered (?), in the laudable trade of merchandise to the coast of Guiney, that commissions may be graunted unto them to resist and take such piratts and robbers att seas as shall piratically sett upon them with

¹ *Sic.*

intent to make spoile of their shipps and ladinges,¹ and them with their shipps and goodes to bringe home into this Kingdome ; Theise are therefore to will you accordinglie to draw such commissions for them, with especiall proviso, and takinge of good and sufficient bondes of them, that nothinge be by them or any of them done, practised, or committed, contrarie to the true intent and meaninge of the same commissions. Whereof you may not faile. Hampton Court, 3 August 1612.

NOTINGHAM.

To my lovinge frend, Mr. Doctor Trevor, Judge of the Admiralty, and to my servant, William Hareward, Registrar of the Admiralty, or to either of them.

1613. Nottingham to Caesar, directing him to pass sentence on the East India Company's prizes.—*Adm. Ct. Exemplifications* 42, No. 51.

Sir Julius Caesar, the marchauntes havinge nowe compounded with me for my tenthes of the goodes taken by their shippes of late in the East India, I am desirous that they shoulde have a speedie despatche of a sentence for the same goodes. And therefore I doe praye you to procede thereunto with your best expedition, and with such contentment unto them as maie gyve encouragement unto their further pro-

¹ These words, from 'as shall,' have been misplaced in the original. In 1618 a similar warrant issued for the Charitie on a voyage to Barbary, and in 1622 for the White Bear on a Mediterranean voyage.

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ceedinges in so wourthie and commendable an enterprize as they now have sett on foote. And so, nothinge doubtinge of your readynes therein, I commend myself unto you, and doe rest
your assured lovinge frende,

NOTINGHAM.

Hampton Courte
the 6 of December 1603.¹

1615. Warrant for a commission for the Golden Dragon to capture pirates.—
*Adm. Ct. Records.*²

Hareward, I will have you drawe a commission for the Golden Dragon of London bound for Barbary, William Castle master, to surprise pirates, according to usuall custom, onelie reserving to me but the eight parte of what they shall take by virtue of the sayd commission. You shall alsoe take bond of Mr. Nic. Leate that the sayd shipp, nor company, shall not rob, spoyle, nor doe any hurte to, his Majestie's subjectes, nor the subjectes of any other prince now in peace with his Majestie; the bond to be of two hundred poundes, and to be returne to me with the commission, when it cometh to be signed. Hampton Courte the 29th of May 1615.

your lord and master,

NOTINGHAM.

To my servant William Hareward, Register of the Admiraltie, these.

¹ This date probably is a mistake for 1613; the letter occurs in a file with others of that date. As to the Ormuz prize-money, see Gardiner, v, 239.

² Formerly *Miscellaneous Bundles*, Series ii, bdle. 240; but these bundles have been broken up and rearranged.

1615. The King of France orders De Villiers Houdan, Governor of Dieppe, to apologize for the seizure, without warrant or legal process, of an English ship and goods at Dieppe, in reprisal for loss suffered by reason of the piratical seizure of a ship of his own by Englishmen; with Houdan's apology.—*Privy Council Register* 27, f. 253.¹

Whereas the Gouvernor of Deipe, pretending to have susteined divers losses at sea from his Majestie's subjects, did therefore, some fewe moneths since, insolently and violentlie seize upon a shipp and goods belonging to his Majestie's subjects liing in the roade of Deipe, without all forme of justice, threatening to do the like unto all other Englishe shippes that should there arrive, untill he had satisfaction of so much damage as hee pretended to have received. His Majestie, upon information of this fowle and outrageous proceeding, being justlie sensible both of his owne honor and of the injurie done to his good and loving subjects, and being provoked by an unusuall expostulation, which the French Embassador did make unto him, by direction from the King, his master, as it did appeare by the letter itself shewed unto his Majestie, did immediatelie thereupon direct his letters unto Sir Thomas Edmonds, his Embassador resident with the sayd French King, in hæc verba :

Right trustie and welbeloved, we greet you well. The Frenche Embassador in a late audience

¹ See below p. 391 for further proceedings in this matter.

hath imparted unto us a letter addressed unto him from the King, his master, written in a highe and haughtie stile, wherein he willeth him to tell us that if speedie justice be not donne for the wrongs, which the gouernor of Deipe pretendeth to have received, and other his subjects, hee shall be forced to give letters of Reprisall for their better satisfaction. Our purpose is, and to that end wee have given order, that the Embassador shall deliver in writing a catalogue of his pretended greivances, which our Concell hath charge presently to peruse, and to retourne to him a particular answer, whereby it shall appeare how justifiable our proceedings are in honor and justice, and how scandalous their exclamations are against our ministers. From our Secretarie you shall receave a particular relacion of the complayntes of our subjects, which wee require you to present to the hands of them who mannage the affayres of that State, and thereof to demaund speedie reparacion. And our pleasure is, that in our name you make the Queene knowe, and the principall officers of that crowne, that no persuasions, of what nature soever, are so forcible to induce us to do justice as the love wee beare to the execution of justice. And therefore wee finde it strange to heare suche language from a king which but yesterday did issue out of his minoritie, wheeras duringe the time of the King, his father, of happie memorie, wee never were acquainted with wordes of this strayne. Our further pleasure is, that in our name you demand speedie and severe justice for the insolencie of the gouernor of Deipe, who hath had the presumption to be his owne executioner upon our subjects, contrarie to the lawes of humane reason. And therefore, if you finde that

his presumptuous bouldness, upon what coulerable pretext soever, to be excused, and not, as it deserveth, exemplarilie to be chastised, you may let the King and Queene know our purpose is, for the honor of the allyance betweene our crownes, not to suffer his audacious presumption to pass unpunished.

According to which directions his Majestie's sayd Embassador, having made his remonstrance there, and demanding justice against the said gouvernor of Deipe, the gouvernor was sent for to Paris, and being firste sharpelie rebuked in that Councell of State for his presumptuous and violent proceeding, (as is advertised by his Majestie's sayd Embassador), it was then and there ordered as followeth, in haec verba :

Extraict des Registres du Conseil d'Estat.

Sur la plainte faite par l'Ambassadeur du Roy de la Grand Bretaigne de ce qu'au prejudice des traitez accordez entre les deux curounes, et contre la liberté du commerce, le Seigneur de Villars-Howdan, Gouverneur de la ville et havre de Deipe, auroit de son autorité privé, et sans aucun forme de justice, arrêté, au mois de . . . dernier, toutes les marchandises appartenantes au merchants Angloys estants en la dite ville de Deipe, et depuis faict saisir un navire Angloys, qui abordoit au dit lieu pour la traffique ordinaire, et ce sous pretexte, qu'à l'instance de l'Embassadeur d'Espagne, on auroit en Engleterre retenu un navire Espagnol pris en mer par un capitaine soy disant avoir chargé dudit Seigneur de Villars Houdan. Requerrant le dit Embassadeur qu'il pleut au Roy commander prompt restitution estre faicte au dits Angloys de leurs marchandises et navire, et enjoint aux gens tenans la court de Parlement à Rouen de faire en dilligence executer l'ordonnance de sa dite Majesté. Ouy le dit Seigneur de Villars-Houdan pour ce mandé. Le Roy estant en son Conseil, assisté de la

Reyne, sa mere, et de Princes, Ducs, Pairs, Officiers de la Couronne, et autres leiges de son dit Conseil, a ordonné et ordonne au dit Seigneur de Villars-Howdan de rendre incontinent et sans delaye, ny frays, toutes les marchandises et navires appartenants aux subjects du Roy de la Grand Bretagne par lui saisies et arrestées au moys de . . . , et lui a faict tresexpresses inhibitions et defences a toutes autres capitaines et gouverneurs de places d'arrester a l'advenir aucuns biens ou marchandises des dits Angloys sans la permission de sadite Majesté, laquelle veut et entend qu'ils puissent traffiquer par tout son Royaume et terres de son obeissance en toute liberté et sureté. Et à ce faire enjoint au dit Seigneur de Villars-Howdan, en tant qu'à lui touche, et à toutes les dits capitaines et gouverneurs de places de tenir la main en l'estendue de leurs gouvernements, sur peine de tous depens, dommages, et interests en leur propre et privé nom. Faict au Conseil d'Estat du Roy tenu a Paris, le vintieme jour de Janvier mil six cens quinze.

And for a greater demonstration of their respect unto his Majestie, the Gouvernor was enjoined to repayre unto his Majestie's sayd Embassador, and to make his submission unto him, as in the person of his Majestie, with acknowledgement of his fault.

1616. Sentence condemning the captain and crew of the Centaur, who had piratically seized her, to restore the *Espérance* and her cargo to her owner, or to pay their value.—*Adm. Ct. Libels* 77, No. 78.¹

. . . . Therefore we, Daniel Dun, [*in common form*] pronounce, decree, and declare, that the honourable François De Villiers

¹ The capture of the *Espérance* was, no doubt, the cause of Houdan's drastic measures mentioned above (p. 388), and his apology was probably in view of this sentence. The

Houdan, in the months of the year 1614, was the owner and proprietor of a French ship called L'Espérance, and armed and fitted her out for a voyage to Africa and America, and appointed Guillaume De Guillottes, lord of St. Andrew, to be her captain, and Charles de Guillottes, Jean Euldes called De la Mott, Nicolas Le Cann, and others, to be officers, seamen, and mariners in her ; And that, whilst the Espérance was on her voyage on the high sea, [and] within the jurisdiction of the Admiralty of England, off the promontory called Cape Verd, some goods, moneys, and wares of great value, which are specified in the libel and in the schedule annexed thereto, [all] belonging to the aforesaid Seigneur François De Villiers Houdan, were loaded and were on board her ; And that John Johnson [and thirteen others named], mentioned in the pleadings of the said Newporte and the others, their companions, comrades, and shipmates, in

ship was seized by the crew of the Centaur whilst her captain was dining on board the latter ship with Newporte, her captain ; this is the '*dolus et fraus*' mentioned in the sentence. The Spanish ambassador intervened in the suit, and claimed the Espérance and her cargo, on the ground that she was trading in Spanish seas without a licence, and that part of the goods brought to England had been piratically taken out of Spanish ships by Newporte. His claim was dismissed, and this, no doubt, was one of the causes of the King of Spain's dissatisfaction (*supra*, p. 360) with the Admiralty Court and its judge. Other proceedings in the suit are in *Libels*, File 76, Nos. 15, 29, 53, 59 ; *Libels*, File 77, Nos. 158, 162. The sentence in the text is an example of the ordinary form of a sentence in a 'spoils' suit, which was a civil proceeding, on the instance side of the Admiralty Court, distinct from the prize side of the same court, and distinct also from criminal proceedings in piracy under 28 Hen. VIII. c. 15. It has not been thought necessary to print the Latin original of the sentence, which is in common form.

the said ship called the Centaur, in the year and months pleaded, or in one of those months, stealthily and by a trick, boarded the *Espérance* and forcibly spoiled the said Guillaume Guillottes, Charles Guillottes, Jean Euldes called De la Mott, and Nicholas Le Cann, whilst they were in quiet and peaceful possession thereof, of the said ship and of the goods, wares, and moneys [on board,] belonging to the said Seigneur François De Villiers Houdan, and carried her off, together with the said goods, wares, and moneys ; And that the *Espérance*, and her apparel and furniture, at the time of the aforesaid spoil, was worth £300 of lawful English money ; And that the above named Thomas Newporte . . . [*and the others above named*] . . . in the year and months aforesaid, or one of them, and at the time of the spoil so committed as aforesaid, were the master, officers, seamen, and company of the Centaur, and were assenting, assisting, aiding, and abetting thereto and therein ; And that the aforesaid goods, wares, and moneys, were, according to the appraisement made by certain merchants sworn to value them truly for the purpose of this suit, as appears in the Acts [of this court] and by their appraisement now in the Registry ; And we also pronounce, decree, and declare, that the above named Thomas Newporte [*and the other thirteen named*] ought to be obliged and compelled to hand and deliver to the aforesaid Seigneur François De Villiers Houdan the said sum of £4197 of lawful English money for the value of the said goods, wares, and moneys, so spoiled as aforesaid, and further to hand over and deliver to him the said French ship [the *Espérance*], and her apparel and furniture in the state they were in at the time of the spoil, if they

are in existence, and if not, to pay him the sum of £300 of lawful English money, for their value. . . .

[Ric.] Exton.

DANIEL DUN.¹

[Arth.] Ducke.

1616. Consent by the Dutch Ambassador to the condemnation of a Dutch pink in the hands of pirates, as pirate goods.—*Admiralty Court Records*.²

Sir Noel de Caron, Knight, Lord Ambassador for the Generall States of the United Provinces, doe hereby condescend, That forasmuch as a Dutch pinck, by what name I know not, was, as I am informed by worshipfull persons, first taken by subjects of the King of Sweathland, secondlie by the subjects of the King of Denmark, and afterwards by English pirats, in whose hands

¹ Sir Daniel Dun was judge of the Admiralty from 1609 to 1616.

From the following entry in the Privy Council Register, under date 11 July 1617, it seems doubtful whether Houdan took anything by his sentence. It does not appear why the money should have been in Coke's hands:

Whereas there lyeth deposited in the handes of George Calvert, Esq., two thousand and foure hundred pounds, which he received by directions from the Boarde of Sir Edward Coke for satisfaction of a sentence given in the Court of Admyraltie on the behalfe of Viliers Howden, governor of Deipe, concerning a pyracie comitted upon a shipp of his by one capten Newporte; It is this day ordered that the said sune of two thousand and foure hundred pounds so deposited be delivered into the hands of such as the Lord High Treasurer of England shall appoint to receive the same, to be imployed as his Lordship shall see cause for his Majestie's service, untill further order be given, for which this shalbe unto the said George Calvert a sufficient discharge.

² See note 2, p. 387, above. The old bundle was 230.

she hath been ever since her first takinge detayned ; And for that I never heard any claim laied to the said pinck, that shee hath bene soe often rescued, the one from the other, whereby I am certified that there is noe right and title to be pretended unto her ; I doe therefore consent that shee maie be disposed of at the pleasure of the right honourable the Lord Admirall of England, whoe by his office and place pretends the most right and title unto her. But withall hopinge that your Lordshipp will doe all justice to the proprietaries of all the goods then taken in her, if hereafter they chaunce to come to make anie clayme or challenge to the goodes therein laden at the time of the takinge. In witnes whereof I have hereunto sett my hand and seale this ixth daie of Februarie 1615.

NOEL DE CARON.

Sealed and delivered in the presence of me,
Za. Sutton.

1617. Recognisance for the good behaviour of Sir Walter Raleigh's ships.—*Admiralty Court, Acts 29, 15 March 1617*.

Winwood writes to Nottingham that the King desires 'a particular relation' as to what ships Raleigh is taking with him, and their force (*Adm. Ct. Acts 29, 15 March 1617*). The survey is returned giving the names, tonnage, crews, guns, captains' and masters' names, of the eight ships. Raleigh, and with him his six captains, Sir Warham Santleger, John Pennington, John Chidley, Richard Wollaston, Edward Hastings, and James Barker, jointly and severally, enter into a recognisance for 4000 crowns conditioned as follows :

The condition of the above written obligation is such that whereas the above bounden Sir Walter

Rawleigh, Knighte, and companie, sett forth to the seas, on an intended voiadge in trade of merchandize, the good shipps called the Destinie, of the burthen of 440 tonns or thereabouts, the Starre, alias the Jason, of the burthen of 240 tonns or thereabouts, the Encounter, of the burthen of 160 tonns or thereabouts, the John and Frances, alias the Thunder, of the burthen of 150 touns or thereabouts, the Flieinge Joane, alias the Chidley, of the burthen of 120 tonns or thereabouts, the Husband, alias the Southampton, of the burthen of eightie tonns or thereabouts, the Rebecca, of the burthen of eightie tonns or thereabouts, and a pinnace called the Page, of the burthen of 25 tonns or thereabouts; Yf therefore the said shipps, nor anie of them, nor the captaines, masters, and companies thereof, duringe the said voiadge, do not robbe, spoile, hurte, or indammage anie of his Majestie's subjects, or the subjects of anie other Prince or Potentate in league or amitie with his Highness, that then this present obligation to be voide and of noe effecte, or else the same to stande, abide, and remaine in full power, force, and vertue.¹

¹ For interrogatories administered to one of Raleigh's captains as to his voyage, see *Adm. Ct. Libels* 77, No. 26.

1617. Sentence condemning, in £300, the master of the Jonas, for deserting the Truelove, during a *voyage de conserve*, or consortship, whereby she was captured by pirates.—*Adm. Ct. Libels* 78, No. 128.¹

. . . Therefore we, Henry Marten,² . . . [*in common form*] pronounce, decree, and declare, that the before named Robert Damon, in the years and months mentioned in the libel, was the master or commander of the said ship, the Truelove, and that the said Robert White, John Roye, Edward Roye, and Joan White, in the years and months mentioned in the libel, were the owners and proprietors of the said ship, the Truelove, and of her apparel; and that the aforesaid Robert Hammott, in the years and months mentioned in the libel, was the master or commander of the said ship called the Jonas, and that in the same years and months Thomas Wadham was and is the master of a ship called

¹ These consortships, or *voyages de conserve*, were common, particularly in the Bordeaux and Mediterranean trades. In 1415 John Sharpe, master of the Christopher of Hull, who had been chosen as one of the Admirals of the homeward-bound wine fleet, was deserted by his consorts and captured. He petitioned Parliament for redress, and the Chancellor, with some of the judges, was appointed to hear the case. The Latin sentence, in the case in the text, owing to its length, has been omitted; it is dilapidated, and some of the words are supplied from No. 127 on the same file, which is a similar sentence against the master of the Bernard.

² Sir Henry Marten was judge of the Admiralty from 1617 to 1641.

the Prosperous, John Foxe master of a ship called the Bernard, Henry Amorye master of a ship called the Samaritan, Bartholomew Ribye master of a ship called the Damsel, John Wadham master of a ship called the Abigail, William Richardson master of a ship called the Aid, and John Thorleton master of a ship called the Friendship ; and that the said Robert Damon, in the same years and months, sailed from England for the parts of Newfoundland to catch fish, and there landed, and caught 200,000 fish, and loaded the same 200,000 fish in the aforesaid ship called the Truelove for the use and on the account of himself and the said Robert White, John Roye, Edward Roye, and Joan White, to be carried to the Mediterranean ; and with the said ship and fish departed from the parts of Newfoundland, and sailed on his voyage for the Mediterranean. And [we pronounce, decree, and declare,] that the aforesaid Robert Damon, Robert Hammott, Thomas Wadham, John Foxe, Henry Amorye, Bartholomew Ribye, John Wadham, William Richardson, and John Thorleton respectively conferred together touching a consortship to be entered into between them, and that the said Robert Damon, Robert Hammott, Thomas Wadham, John Foxe, Henry Amorye, Bartholomew Ribye, John Wadham, William Richardson, and John Thorleton, in the years and months aforesaid, upon the high sea, and within the jurisdiction of the Admiralty of England, unanimously agreed to enter into such consortship, and the terms of it are set forth in the schedule annexed to the libel in this cause now in the hands of the Registrar of the court (which libel and schedule we take to be here read and inserted) ; and that the said

Robert Damon, Robert Hammott, Thomas Wadham, John Foxe, Henry Amorye, and Bartholomew Ribye by their several signatures to the said scheduled agreement did respectively declare their assent thereto, and agreed and assented to all its terms, and bound themselves, one to the other, to abide by, fulfil, and carry out the consortship and the contract and articles set forth in the said schedule. And we [pronounce, decree, and declare] that the said Robert Damon, and Robert Hammott, and also [the said] Thomas Wadham, John Foxe, Henry Amorye, John Wadham, William Richardson, and John Thorleton, with their respective ships, for about twenty days, sailed on their voyage to the Mediterranean as consorts, and in accordance with the agreement set forth in the said schedule, and [so continued] until they came within eight leagues of the port of Malaga, where some piratical vessels manned by Turks and other sea robbers approached, in full view of all of them, the said ships, the Truelove, Jonas, Prosperous, Bernard, Samaritan, Damsel, Abigail, Aid, and Friendship, and with all their strength gave chase to the Truelove and the Prosperous, and shot balls from their cannon at [all of] them, but most of all at the Truelove and the Prosperous; and that the said John Foxe, Henry Amorye, John Wadham, and William Richardson, and particularly the said Robert Hammott, the master of the Jonas, failed to assist the Prosperous to the utmost of their or his power; on the contrary, seeing what had happened they set all the sail they could, and without firing a shot or shewing fight at all, in breach of the agreement they had entered into as aforesaid under the terms of the aforesaid

consortship, as set forth in the said schedule, they abandoned themselves to flight and fled away ; and that the same Robert Damon, the master of the Truelove, and Thomas Wadham, the master of the Prosperous and their crews, being so attacked and set upon by the said men of war as aforesaid, for four hours strove with all their strength to escape from the said pirates, but at last were by the force and violence of the aforesaid pirates compelled to run their ship ashore when within five leagues of the port of Malaga ; and that the said pirates spoiled, set fire to, and burnt, the said ship, the Truelove, and the apparel, merchandise, and goods, laden in her as aforesaid ; and that the said Robert Hammott, whilst the said fight was going on, neither offered nor gave any aid or assistance with his aforesaid ship or men to the aforesaid Robert Damon, his ship, or crew, as under the agreement set forth in the said schedule he ought to have done ; and that the said ship, the Truelove, and the goods laden in her as aforesaid could have been saved from being spoiled and burnt by the said pirate ships, had the said Robert Hammott, John Foxe, Henry Amorye, John Wadham, William Richardson, and particularly the said Robert Hammott given aid and help to the aforesaid Robert Damon, as they and he ought to have done ; and that the said ship, the Truelove, at the time of her spoiling, was of the burden or capacity of 120 tons, and with her full equipment and armament of gear, victuals, and other necessities was worth the sum of £600 of lawful English money, and each thousand fish in the said ship, the Truelove, as aforesaid, was worth the sum of £5 of lawful English money. Wherefore we pronounce, decree, and declare, that

the aforesaid Robert Hammott, by reason of the premises, has broken the agreement set forth as aforesaid in the aforesaid schedule, and has incurred the penalty and forfeiture of £300 of lawful English money mentioned in the articles or contract aforesaid, and made himself liable to pay the same to the aforesaid Robert Damon, and we condemn him, Robert Hammott . . . [*condemnation in common form*].

HENRY MARTEN.

1622. Order of the Privy Council that Sir Robert Huddleston be permitted to sail with volunteers to assist the King of Spain against his enemies.¹—*S.P. Foreign, Spain*, 25, f. 104.

Whereas the King's Majestie is pleased that such of his subjects as are willing to imploy their time abroad in the warres under foraine princes, (being in amitie with his Majestie), should bee suffered to passe the seas to that purpose ; Theis shalbe in his Majestie's name to will and require you, and every of you to whom it may appertaine, to suffer Sir Robert Huddleston, Knight, togeather with such voluntarie souldiers as shalbe willing to go over in his companie for the service of the King of Spaine, to imbarque themselves in anie shippes or vessels hee shall provide for their transportation. For which this shalbe unto everie of you a sufficient warrant. Dated at Whitehall, the last of May 1622.

To all Mayors, Sheriffs, Justices of Peace,
Vice Admiralls, Customers, Comptrollers,

¹ See Gardiner, iv, 272.

Headboroughs, and all other his Majestie's Officers, and loving subjects, to whom it shall or may appertaine.

L. CRANFEILD, J. (?) MANDEVILLE, E. WORCESTER, ARUNDEL and SURREY, PEMBROKE, J. FALKLAND, G. CAREW, T. EDMONDES, GEO. CALVERT, JUL. CAESAR.

1623. [*Endorsed*] Directions for a letter to Sir Dudley Carleton touching the protection given to Spanish shippes by His Majestie within his owne harbours.¹—*S.P. Foreign, Holland*, III, f. 63.

Sir,—

19 March 162 $\frac{2}{3}$.

His Majestie likes the proposition made to the States by Sir Dudley Carleton, which is herewith retourned you, and expects a conformable answeare, which, if it shall not succede to His Majestie's satisfaction, his pleasure is, the former direction of declaration and protest bee pursued. Neverthelesse, observing some ill grounded jealousies and feares in the discourse the Prince of Orange held with His Majestie's ambassador, His Majestie is pleased to clear them thus: His Majestie first declares in that particular hee hath done to the Spanish shippes as hee is bound to doe by the lawe of nations to all refugees in alliance with him. And His Majestie, upon the first hearing of it, hath given order to the

¹ A letter to this effect was written to the English Ambassador. As to the occasion for this correspondence, the attack on Dunkirkers in Leith harbour, see Gardiner, v, 79.

Duke of Lennox, Admirall of Scotland, to give libertie to those prisonners of the States subjects in the shippes of Dunkirk, untill His Majestie was well informed with how presumptuous a high hand the Hollanders had attempted the Dunkirkers refuged, even within the harbour, and upon the bord of His Majestie's shoare, within such a distance of the towne as by the artillerie of their shippes some chimneis were shaken downe. The insolence of which accions his Majestie knew not howe more mildly to correct, and shew the States the construccion his Majestie made of that audacious and unrespectfull carriage of their subjects, then to preserve the refugees, not only in safetie, but to give them all munitie and libertie to the disadvantage of those that did forgett the Law of Nations and good manners to him. But the other points, of giving freedome of his harbors to the Spanish shippes to lye in, to wait opportunities to take the Holland shippes, His Majestie's pleasure is, that his ambassador satisfie the Prince of Orenge, the States, or anie other, that His Majestie's meaninge is, not to give his ports to the Spaniards to make warr upon his allyes, nor to aske those of Holland two tydes libertie for such shippes of Spaine as shall come freely in his harbors, but leaves the Hollanders free to wayte for them, they doing no hostile act in the harbour, to deale with them at sea as with their enemies. Neither will His Majestie make his ports and harbours a free market for ransoming of prisonners, or sale of goods taken from his freinds or allies, but will set free the persons, goods, and shippes, so taken and brought in, provided that his freinds and allies yeild him and his harbours due respect by expecting his justice, and not

presuming for their proper force, which being once stood upon or presented calls upp another to doe the like. His Majestie's pleasure therefore is, that his ambassador doe freely give this answeare to the Prince of Orenge his doubts, as a free and clear satisfaction. And if he or that state shall not receave it gladly, and give His Majestie satisfaction in the point desired concerning their Dunkirk shippes, the declaration shall make double the innocence of His Majestie, and that state double guilty of all the evill that may ensue. This is the charge I have receaved, etc.

Note as to documents relating to the wars of 1625-1630, and subsequent treaties of peace.

In the first year of his reign Charles I was at war with Spain, and on 7 April 1625 a commission issued to Buckingham, the Lord Admiral, empowering him to issue letters of marque or reprisal.¹ Instructions for privateers followed on 3 November.² These differ from those of 1585 in two Articles only; Art. 2 authorises captures in rivers, ports, and creeks, as well as on the high sea, and Art. 5 provides for the sale of perishable cargoes in disputed cases 'causâ reiservandae.' On 20 Dec. 1625 the treaty of Southampton between England and the United Provinces was ratified.³ By it (Art. 20) war materials and victuals, 'munitions de bouche et de guerre,' silver, leather, iron, and shipping materials for Spain, were declared contraband, and it was agreed that ships carrying them should, with their cargoes, be good prize; and all trade between either of the contracting parties and Spain was prohibited. A few days afterwards a proclamation⁴ issued prohibiting trade with subjects of the King of Spain or the Archduchess. This was afterwards, on 2 April 1626, explained to mean that

¹ Rymer, xviii, 12.

³ Du Mont, v, pt. 2, p. 480.

² *Infra*, p. 410.

⁴ Rymer, xviii, 251.

English shipowners might import Spanish goods, 'so as they do not hazard their ships, or expose them to be seized in any ports or territories of the King of Spain or the Archduchess,' and so that they carry no prohibited goods to Spain. This licence being abused, by an Order in Council of 20 August 1627 it was revoked.¹ By another proclamation of 24 Dec. 1625 ships of and over 60 tons were forbidden to go to sea unless fully armed.² On 31 Dec. a further proclamation issued, giving effect to the clauses of the treaty as to contraband, and authorising the issue of letters of reprisal against Spain 'as other kings in like cases have always used to doe'; it being 'neither agreeable with the rules of policie, or law of nations, to permitt the said kinge, or his subjects, to be furnished and supplied with corne, victual, armes, provision for his shipping, navye, or armes, if the same can be prevented.'³ Difficulties having arisen as to the construction of the clause dealing with contraband, a subsequent proclamation, of 4 March 1627, enumerated the goods which were to be deemed contraband; and it further declared that ships returning to the United Provinces with cargoes bought with the proceeds of contraband goods carried to, and sold in, Spain, were together with their cargoes, good prize; 'whereby, as His Majestie doth put in practice noe innovation, since the same course hath been held, and the same penalties have been heretofore inflicted by other states and princes upon the like occasions, and avowed and maintained by public writings and apologies, so now his Majestie is, in a manner, inforced thereunto by proclamations set forth by the Kinge of Spaine and the Archduchesse against those that shall carry, or have carried, without limitation, the like commodities into their Majesties' dominions.'⁴

The argumentative character of these proclamations indicates the difficulties which had already arisen, or were soon to arise, in attempts to enforce them against neutrals. French ships with cargoes on board for Spain and the Spanish Netherlands were being captured; also French ships with goods, nominally for Calais, but really for the Netherlands. The St. Peter of Havre is the most notorious case. Conflicting orders were sent by the Council to the judge of the Admiralty, directing him at one time to restore, at another

¹ *P.C. Register* 36, f. 107.

³ *Ibid.* xviii, 259.

² Rymer, xviii, 252.

⁴ *Ibid.* xviii, 856.

to condemn or detain with or without adjudication, the cargo on board. Finally money in her was arrested, and before an order of the Council to restore it could be carried out, France had, in reprisal, seized English ships and goods.¹ This led to the appointment on 11 July 1626 of a commission to Sir John Coke, Sir Julius Caesar, and Sir Henry Marten, and others, to inquire and report as to doubtful points of prize law, and as to the practice of English and foreign Admiralties in the past.² Meanwhile war had broken out with France, and on 19 March 1627 Buckingham had been commissioned to issue letters of marque or reprisal.³ On 1 May 1627 instructions for privateers, similar to those of the previous year against Spain, followed.⁴ In this year Prize Commissioners were, for the first time, appointed⁵; their duties were mainly to safeguard the King's and the Lord Admiral's interests in prizes; also an Order of Council issued enabling captors who had obtained sentence of condemnation in the Admiralty Court to sell their prizes, notwithstanding an appeal, upon giving security to refund the proceeds if the appeal succeeded.⁶ On 25 June another order directed that claimants in prize cases should pay double costs and damages if their claims were found to be fraudulent, and suffer prosecution in the Star Chamber, and that to foreign states permitting its officers to falsely colour goods no credit should thereafter be given.⁷

Upon the death of Buckingham in 1628 the Admiralty was put into commission, and the commissioners, on 20 Sept., received a new authority to issue letters of marque and reprisal. It authorises the capture of Spanish ships and goods,

¹ Gardiner, vi, 43; Sydney, *State Papers*, ii, 662. A paper in the Admiralty Court records now in process of rearrangement (formerly *Miscell. Bundles*, Ser. ii, 243) contains a list of ships condemned in 1624-26, and arguments as to prize law; *S.P. Dom. Chas. I*, dxxx, 54, is a letter of Marten's giving his reasons for condemning the French *St. Marie*.

² Rymer, xviii, 731.

³ *Ibid.* xviii, 861; and again on 27 April 1627, *ibid.* 887.

⁴ *Adm. Ct. Letters of Marque Bonds* 225, f. 2.

⁵ Rymer, xviii, 895.

⁶ *P.C. Register* 35, f. 378.

⁷ Rymer, xviii, 911.

wherever found by 'our loveinge subjectes soe dampnified' as mentioned,¹ but there is no provision, as there was in the commissions of 1585 and 1625, requiring proof of loss, and no such proofs have been found. Fresh instructions to privateers were issued on 30 Sept. 1628, in almost the same terms as those of 1627 against France, but an additional Article (Art. 11) provides that security be given for the payment of tenths to the King. Forms of the letters of marque or reprisal issued during 1625-28 are extant.² The later ones contain a clause requiring security to be given against spoil of ships of the Channel Islands, Algiers, Tunis, Sallee, and Tetuan, and another that three or four of the crew of the prize, including the captain and pilot, be brought home to prove the property. The clause as to Barbary ships was consequent upon an Order of Council that they were not to be molested, the Government not knowing whether to treat them as pirates or belligerents.³ On 15 Oct. 1628 a proclamation forbade the transportation of corn, victuals, or war material to France.⁴

The treaty of peace of 1630 between England and Spain⁵ contains a provision that English goods in Hollanders' ships, and Hollanders' goods in English ships are to be good prize to a Spanish captor. This was enforced⁶ by the Spanish Admiralty Court at Dunkirk, but upon the captor afterwards coming to England he was condemned in damages for an illegal capture, it having been made in Dartmouth Bay, in the King's 'chamber,' and the decision was affirmed upon appeal.

The treaty of peace with France of 1632⁷ restricts the issue of letters of reprisal to cases where there had been persistent denial of justice, and provides (Art. 2) that they are not to be executed in ports or havens, except against the actual wrongdoer, regulates (Art. 3) visitation and search, and contains other clauses (Arts. 4, 5, and 6) as to privateers and their prizes.

¹ See *Adm. Ct. Letters of Marque Bonds* 225, f. 1.

² *Ibid.* ff. 2 b, 4, 6.

³ Rymer, xix, 2; *Adm. Ct. Miscell.* 532, f. 72 (under rearrangement).

⁴ Rymer, xix, 2.

⁵ Du Mont, v, pt. 2, p. 631.

⁶ *Infra*, p. 490.

⁷ Rymer, xix, 364.

The prize sentences of the wars of 1625-30 are to be found in the *Libels* series of the Admiralty Court records, Nos. 83 to 91; there are altogether from 600 to 700 sentences. The law applied seems to have been generally in accordance with the proclamations. Friends' ships with prohibited goods on board were usually condemned; but in some cases the ship was restored, as an act of grace, by order of the Council; sometimes the goods only were condemned. Where part of the cargo was contraband, and part free, or where part was enemies' goods and part friends', condemnation of the former did not affect the latter. Return cargoes, bought with the proceeds of contraband carried to the enemy, were condemned. Enemies' ships and goods seized in England by a Vice-Admiral were condemned to the Admiral and Vice-Admiral, presumably in equal shares.

An appeal from the judge of the Admiralty lay to the King, who appointed commissioners, called judges delegate, to hear it. These commissions are frequent on the Patent Rolls from the close of the fourteenth century onwards. The form of such a commission is in Rymer, xix, 300.

In 1630 occurs the first instance of the erection of an Admiralty prize court out of England. The Company of the Isle of Providence, off the Mosquito coast, by their charter were granted all Admiralty rights in the island and adjoining seas, including a right to issue letters of marque, and by implication the right to condemn prizes. Captain Dell, of the *Advantage*, was instructed to obtain and have registered in the island adjudications of prizes taken on his outward voyage.¹

1624. Warrant from Buckingham to the judge of the Admiralty to take proof of losses suffered in the Low Countries at the hands of Spaniards or Hollanders, preparatory to the issue of Letters of Reprisal.—*Admiralty Court, Letters of Marque Bonds* 214, f. 1.

Whereas it pleased his Majestie to direct his commission unto me under the great seal,

¹ *Col. Entry Book*, vol. iv; *Pat. Chas. I*, pt. 1, No. 1.

bearinge date the 14th day of February last,¹ to graunt out of my office of the Admiraltie commissions of marque or reprisalls unto such of his Majestie's subjects as have sustained hurte, losse, or damage by the Kinge of Spaine's subjects inhabiting in the Low Countries under the said Kinge's obedience, as also against those that live under the obedience of the States General of the United Provinces of the Lowe Countries respectively, accordinge to certaine Articles sett downe and agreed on by the Lords of his Majestie's privye counsell, which you have already received from their Lordshipps, and are to remaine with you uppon record ; These are to will and requier you to receive such complaints as shalbee brought unto you by any of his Majestie's subjects, who have suffered losse or damage by any of the subjects of the Kinge of Spaine inhabitinge in the Lowe Countries under the said Kinge's obedience, or by those that live under the obedience of the States Generall of the United Provinces respectively, and takeinge sufficient proove of the justnes of their said complaints, to give me notice thereof, and of the names of the parties, to the end that I may give you particuler order for the graunting of commissions of reprisall to them, accordinge to his Majestie's pleasure signified on that behalfe ; for which this shalbe your warrante. From Theobalds, this tenth of November 1624.

BUCKINGHAM.

To my verie lovinge frend, Sir Henry Marten, Knight, judge of the highe courte of Admiraltie

¹ See Rymer, xvii, 667 ; cf. *Ibid.* xviii, 12 and 188.

1625. Articles sett downe by the Lords and others of His Majesty's most honorable privy councell, according to the tenor of the commission graunted by His Majestye bearing date the second of November 1625, for such merchants and owners who have or shall have leave from the lord Admirall, or his leefteante, to repaire to the seas againste the subjectes of the Kinge of Spaine by vertue of the aforesaid commission.—*Adm. Ct. Letters of Marque Bonds* 224, f. 28.¹

1. Imprimis, That all merchants and others who shall desire to have letters of reprizall for the takinge and detaininge of ships and goods of the Kinge of Spaine, or his subjects, shall first make proof or exhibitt such information before the Lord Admirall, or his leeftenant judge of the Admiraltye, or either of them respectively, as they shall thinke fitt and agreeable to his Majestye's intention, that their shipps and goods have bin taken out and detained from them, and that their losses and damages have bin such as they pretende to have susteined.

2. Item, That it shalbee lawfull for the merchants and others authorized by letters of Reprisall to sett uppon by force of armes, and to take and apprehende uppon the seas, or uppon any river, or in any porte or creeke, the shipps and goods of the Kinge of Spaine, or any his subjects whatsoever.

3. Item, That the said merchants, and others, shall give bond before the said Lord Admirall,

¹ Also in *P.C. Register* 33, f. 154.

or his leefftenant judge of the Admiraltye, that they and every of them shall bringe such shipps and goods, which they shall soe take and apprehende, to some such porte of his Majestye's realme as shalbee most convenient for them.

4. Item, That all shipps and merchandise taken by vertue of any commission aforesaide shalbee kepte in safetye, and noe parte of them solde, spoiled, wasted, diminished, or the bulke thereof broken, untill judgment hath firste passed in the highe courte of Admiralty that the said goods are lawfull prize ; otherwise the said commission to bee voyed, as well to the taker, as to all others that shall buy or intermeddle with the said goods, or any parte of them.

5. Item, That yf, by reason of opposition in the adjudication of the shipps and goods taken for lawfull prize, there bee necessitye, before the adjudication, to sell them because they bee peritura, and servando sine damno servari non possunt, in this case the judge of the Admiralty shall graunte commission to take a true Inventory and Appraisement thereof by five honest and sufficient men, and sell the same plus offerenti, and to returne the proceed, together with the said Inventory and Appraisement into the courte of Admiralty, there to remaine to the use of them to whom of righte they shalbee adjudged to appertaine.

6. Item, That those merchants, and others, which shall have the said letters of Reprizall, shall not attempte any thinge against any of his Majestye's lovinge subjects, or the subjects of any other Prince or state in good league and amitye with his Majestye, but only against the Kinge of Spaine, and his subjects.

7. Item, That after adjudication passed in the

highe courte of Admiraltie as aforesaid, it shalbee lawfull for the merchants and others to keepe such and soe many shippes, goods, and merchandise as aforesaid, as shalbee adjudged unto them, in their possession, and to make sale and dispose therof in open market, or howsoever ells, to their best advantage and benefitt, in as ample manner as at any tyme heretofore hath beene accustomed by way of Reprizall, and to have and injoye the same, as lawfull prizes, and as their own goods.

8. Item, [That] all and every of his Majestie's subjects, or any other person who shall, either in his owne person serve, or otherwise beare any chardge or adventure, or in any sorte further and sett forward the said enterprise, according to the Articles, shall not in any manner of wise bee reputed or challenged for any offender againste anye of his Majestie's lawes, but shall stande and bee by vertue of the said commission from the said Lord Admirall free and freed, under his Majestie's protection, of and from all trouble and vexation that might in any wise growe thereby.

9. Item, That yt shalbee lawfull for all manner of persons, as well his Majestie's subjects, as any other, to buy of the said goods or merchandise soe taken and apprehended by the said merchants and others, and adjudged for lawfull prize, as is aforesaid, without any daunger, losse, hindrance, trouble, molestation, or incumbrance, to befall the said buyers, or any of them, and in as ample and lawfull manner as if the said goods had bin comen by through the lawfull trafficq of merchants, or as juste prizes in the tyme of open war.

10. Item, That the said merchants, and others, before the takinge of the said commission,

shall give notice to the Lord Admirall or to his leefftenante judge of the Admiralty, of the name of the shipp, and her tonnage or burthen, and the name of the captaine or owner of the said shipp, with the number of mariners and men in her, and for what tyme they are victualled, and alsoe of their ordnaunce, furniture, and municon, to the intent that there may bee an accompte made therof at their returne.

At Hampton Court, the third of November 1625.

1625. Letters of reprisal against Spain.—
Admiralty Court, Letter of Marque Bonds 224, f. 30.

George, duke of Buckingham etc. to all Christian people to whom these presents shall come, Greetinge in our Lord God everlastinge. Whereas our sovereigne Lord, Kinge Charles by the grace of God King of England, Scotland, Fraunce, and Ireland, defender of the faith, etc., because many of his lovinge subjects have sustained divers and sondry greate wrongs and losses and dammages, as well at sea in surprisinge and taking their shipps, goods, and marchantdices, by the Kinge of Spaine, or his subjects inhabiteing in sondry places under the said King's obedience ; and notwithstandinge all faire courses and due proceedings, according to the formes of princes and states being in amity, have bin observed and used in demanding and seekinge restitution and reparation for the said wronges, losses, and dammages, noe restitution or satisfaction can yett be obtained ; Uppon the humble suit of his said subjects for letters of reprizall, they haveinge noe

other meanes by order of justice for their relief, and that they may be licensed to staye, apprehend, and take the shippes and goods of the saide Kinge of Spaine, or his subjects, accordinge to their severall cases, wheresoever the same shalbee founde uppon the seas, or in any porte or parte within or without his Majestye's realmes and dominions, to answer the losses and dammages by his said subjects sustained as aforesaid, or otherwise for a full restitution to bee made to them of the shippes, goods, and marchantdices, soe taken and deteined from them respectively, with their reasonable chardges which they shalbee at for the recoveringe of the same; Hath by his Majestye's letters patent bearing seale the second day of this instante November¹ . . . [*empowered me to issue letters of reprisal, subject to articles agreed on by the Council*] . . . And whereas, further, Humphrey Slaney, of London, merchant, hath sustained losse and damage, to the some of five thousand poundes sterling, by the subjects of the Kinge of Spaine lately surprizing, takeinge, and spoilinge, his shippes, goods, and merchantdices . . . [*and has set forth the William, of 250 tons &c., and has entered into a bond not to spoil friends, and to bring in his prizes*] . . . together with three or fower of the company of every such prize as shalbee of most accounte, whereof the master and pilott to be too, to some ports of his Majestye's realm of Englande as shalbee most convenient for them; and shall keepe in safety the said shipp and goods soe taken, and not breake bulke, sell, spoil, waste, or diminishe the same, or any parte thereof, untill judgment hath firste passed in the highe courte of Admiraltie that the said goods are lawful prize, or the same

¹ This is printed in Rymer, xviii, 12.

goods shalbee decreed by that courte to bee appraised and solde as perishable, according to such commission as shalbee yssued out of the highe courte of Admiraltie in that behalf. Know ye, therefore, that I, the said George Duke of Buckingham, Lord High Admirall of England, aforesaid, by vertue of his Majestye's said letters patent to mee directed, doe license and aauthorize the said Humphrey Slaney to set forth to the seas the said shipp called the William, and therewith by force of armes to sette uppon, take, and apprehende any of the shipps, goods, moneys, and marchantdices of the Kinge of Spaine, or any of his subjects, and the said shipps, goods, moneys, and marchantdices being soe taken and broughte into some porte of his Majestye's realme of Englande, and thereof an inventory taken, appraisement made, and judgment given in the said highe courte of Admiralty for the approbation of the same to bee good and lawfull prize, in manner and forme aforesaid . . . [*to keep and enjoy the same without challenge; and so that buyers thereof should incur no penalty, as above, p. 412*]. . . . Provided allwaies that all shipps, goods, and marchantdices taken by vertue of this commission shalbee kepte in safetie, and noe parte of them solde, spoiled, wasted, or diminished, nor the bulke thereof broken untill judgment hath first passed in the highe courte of Admiraltye that the said goods are lawfull prize, or otherwise decreed to bee appraised and solde as perisheable; Otherwise this commission to all purposes to be voyde, as well to the takers as to all others that shall buy or meddle with the said goods, or any part thereof; or yf by color of this commission there shalbe taken any shipps, goods, or marchantdices of any of his Majestye's loving subjectes, or

the subjects of any prince or state in good league and amity with his Majestye, and the same or any other shippes or goods taken by auctoritie hereof shalbe spoiled, solde, imbeasseled, or diminished in any place before they shalbee adjudged in his Majestye's highe courte of Admiraltye to belonge to the subjectes of the Kinge of Spaine, That then this commission to bee voyde and of noe sufficient auctoritie, either to take the said shippes, goods, and marchantdices, or to warrant or save harmless such as shall receive, buy, or intermeddle therein; But that both the prizes soe taken, and the shippe of warr shalbee confiscated to our use. Provided, further, that this commission shall remain and bee in force by the space of twelve monethes from the day of the date hereof. In witness etc.

1626. A draught of certain Instructions for the ordering of the captains and companies serving as men of warr in his Majestie's shippes.—*S.P. Dom. Chas. I*, vol. xliii, No. 61.

That if any fleet shalbe sett to sea at the King's charge, or any shipp shall bee appointed to goe to sea for His Majestie's service against the enemye, the Lord Admirall, or his lieutenant or judge of the Admiraltye, shall make the captaine of everie ship to sweare that he shall rightly and loyallie demeane himselfe in the government of his ship, not doing any hurt or damage to his Majestie's subjects, friends, allies, or wellwillers, whatsoever, and that he shall give a just accompt of his voyage, and of the men committed to his charge, ymediately upon his return.

That the said Lord Admirall, or his lieutenant, shall cause to sweare everie maister and pilote and the quarter maisters, that they shall, every one of them, answer for the men that are under their charge, and for their behavior during the voyage at sea, considering that the things which are done at sea are of another qualitie then thinges that are done att land, and that if any man committ a crime or misbehaviour at sea, the companie must needs have knowledge of it, and that the party offending cannot run away, nor absent himselfe, untill he return to land.

That the said Lord Admirall, or his lieutenant, shall give forth noe letters of reprisalls, unlesse it bee first made appeare unto them that the ship is well and sufficiently furnished with men, marriners, and all officers belonging to a shipp of warre, alsoe with munition, victualls, and all other provision requisite or necessarie for the warre, considering that for want of due order to be held herein, and by having such ship, either manned with base unworthie people, or unfurnished of victuall and other fit provision for the defensive or offensive parte, shee may bee easily made a pray to the enemie, to the dishonor of the King and Kingdome, and to the disreputation of His Majestie's forces at sea.

That the said Lord Admirall, or his lieutenant, finding a shipp furnished in all points as is in the next precedent article expressed, shall then grant forthe letters of marte or reprisall, taking bond accustomed and oath, as in the former articles are expressed, and shall straightly enioyne the master to be obedient to the captaine, and the quarter maisters to their master, under paine of bodilie punishment at their returne.

That if thorough the disobedience of any of

the parties in the precedent article mentioned, or any other, any inconvenience or hinderance shall befall in the service, the Lord Admirall, or judge of the Admiraltie, shall punish the party offending according to the quality and exigence of the fact, and cause him to repaire the losses with all that the delinquent is worth, if the loss amount thereto.

That in all shippes so to bee sett out by His Majestie, the Lord Admirall, if he please, may name one sufficient man of [the] ship's companie, into whose hands all charter parties and bills of lading, and other papers found aboard any ship so taken for lawfull prize, shalbee consigned, and hee to be accomptable for them att their returne to the said Lord Admirall or his lieutenant; and, in case the said Lord Admirall shall not appoint any speciall man to take care and charge of the papers aforesaid, then the maister of the shipp to take charge of them, and to be accomptable for them, att his returne, in manner and forme aforesaid, as if he had bin by name appointed therunto by the said Lord Admirall or his lieutenant.

That of all prizes that shalbe taken upon the sea, the companie therof, or att least two or three of the principall of them, (yf they bee in the shipp when she is taken), shalbe brought home and presented to the Lord Admirall, or his lieutenant judge of the Admiraltie, to be by him forthwith examined, to the end that justice may be done accordingly for the adjudging or quitting of the prize with all possible speed and expedition.

That, in case any marchandize, ships, or marchants, of his Majesty's subjects or allies shalbee endomaged or stayed by any of His Majestie's men of warr without just and reason-

able cause, the Lord Admirall, or his lieutenant, shall forthwith cause the damage or hinderance to them done to be repayed, and goods from them taken to be restored, and shall in noe wise suffer that His Majestie's subjects, allies, or frends, shalbee endomaged in their persons or goods, either openlie or under colour or pretext whatsoever, as to say they knew not whether they were enemies or noe.¹

That if any shalbee found to have committed a fault upon the seas, whether it bee in sinking any vessell, or robbing any goods out of them, or drowninge the bodies of marchants or other our subjects or allies belonging to the same, or to have landed them in some farre remote coast, thereby to conceale their robberie or unwarrantable act by them committed ; or if, finding themselves the stronger, they shall put our said subjects or allies, or any of them, to ransome for readie monie or otherwise, the Lord Admirall or his lieutenant shall doe, or cause to be done, due justice upon the parties so offending without delay, favour, or forbearance, and in such manner as may most serve for an example unto others, due information and prooffe first had and made against them.

That, for as much as heretofore and of late times thorough the many practices and intelligencies which sundry of His Majestie's subjects,

¹ A preceding paragraph deals with the case of a captured ship which has been abandoned by her crew. The judge is to decide, upon the captors' evidence, whether she belongs to enemies or friends ; if to enemies, she is to be delivered to the captors, upon security being given to restore her if his decision is found to be wrong ; if to friends, she is to be put into safe custody, and the captors are not to be punished unless there has been misconduct. The whole paragraph has been struck out.

allies, and confederates, have and hold with His Highnes' enemies, where any prise hath been taken upon sea by any of His Majestie's said subjects, many suits have been commenced against them by the subjects of His Majestie's said confederates and allies, under colour of some certain part or portion which they have pretended to have therein with our said enemies, whereby they have been much troubled, and some time punished, either with losse of the said prises, or other bodilie punishment, and consequently deterred from building and setting forth ships of warre, or to serve therein, for prevention of such frauds and wrongs practised by strangers against His Majestie's said subjects, and that His Majestie's said subjects may take heart again and be encouraged to proceed in the building and setting forth ships of warre and serving in them, as formerly they have done, if therefore any of His Majestie's owne ships, or the ships of his subjects having letters of reprisall shall take and surprize at sea any ship belonging either to any of his owne subjects or to any of his allies and frends, wherein there shalbee any men or marchandize or other goods belonging to His Majestie's said enemies, or if they shall take any shippe belonging to His Majestie's enemies wherein there shalbe found any person, marchandize, or other goods of His Majestie's saied frends, confederates, or allies, or wherein they are partners in any sorte, in this case it shalbe lawfull for our owne said ships or subjects, having letters of reprisall, to bring away the ship, with such prisoners as they shall thinke fitt, and to the nomber above limited, into the realme of England, in such manner as if all and singular the said ship, goods, and marchandizes, belonged

to the enemies of the King, and shall here undergoe the triall of the right of the prise before the said Lord Admirall, or his lieutenant, according to the lawe and custome of the sea, without being impeached upon point of misdemeanour or forfeiture of bonds whatsoever.

Immediately upon the taking and boarding of any ship upon the sea as lawfull prize, His Majestie's servants and subjects shall forthwith doe their dilligence to gett into their hands the charter parties, bills of lading, and other letters, and in case there shalbee noe charterpartie or bills of lading, and that the maister and companie, or any of them, have throwen them overboard, or otherwise consumed or defaced them, that then it may bee lawfull for the takers to bring the said ship, goods, and marchandize, with the prisoners as is before expressed into the realme of England in such manner as if they did properly belong to the enemies of the King, here to undergoe a triall concerning the right of the prise so taken, according to the lawe and custome of the sea, without being impeached upon the point of misdemeanour or forfeiture of bonds whatsoever.

That if any of His Majestie's ships, or others having letters of reprisall, shall meet with anie ship carrying forbidden goods or marchandise, or otherwise so assisting our enemies with arms, vittaile, or munition, or if they shall meet with anie ship returning from our enemies' countrie, which hath in that voyage outward carried forbidden goods or marchandise, or otherwise assisted our saied enemies, as is before expressed, that it be lawfull for His Majestie's saied ships, or others having letters of reprisall, to take and bring in such ship or ships as if they were the ships of enemies, here to undergoe a triall concern-

ing the right of the prize so taken, according to the lawe and custome of the sea, without impeachment in point of misdemeanour or forfeiture of bonds.¹

1626. An order for what bonds are to bee entered into uppon grauntinge of letters of marque.—*P.C. Register*, 25 Ap. 1626; *Adm. Ct. Miscell.* 532, f. 40.

Whereas information was made unto the Board that many men doe forbear to take forth letters of reprizall by reason of the greate summes wherein it is required that they should become bound at the settinge forth of the shippes, for which alsoe it is required that they should put in a sufficient securitye of persons which remaine at home for their behavinge of themselves at sea in such lawfull manner, as by the course of the Admiralty is required; Whereas, if more encouragement were given to such as mighte bee willinge to sett forth shippes uppon letters of reprizall, it might tend both to the impeachment of his Majestie's enemyes, and to the securinge of his owne coasts; It was this day ordered that noe bond hereafter shalbe taken of any greater summe than 2000^{li} for the greatest shippes to bee sett forth uppon reprizall, and that it is left unto the discretion of the judge of the Admiraltye to take bond of a lesser summe for shippes of lesser burthen, to bee proportioned

¹ This paragraph, which is added in the place of one that has been struck out, as well as other alterations in the draft, is in a different hand from the body of the draft, which is in a clerk's hand. The additions and alterations may be in the hand of Marten, the judge of the Admiralty.

to their burden, as may best stand with the course of the said Admiralty; And that there shall not bee required any other securitye then the bonds of the captaine and master and suche other of the companie as the said judge of the Admiralty shall think fitt, of whom likewise an oath shalbee taken that they shall not committ any spoile uppon any of the subjects of his Majestie, or the subjects of his allies.

[Dated 25th April 1626.]

1626. First decree, adjudging to the Lord Admiral and his Vice-Admiral enemy goods seized by the latter in England.—*Adm. Ct. Libels* 82, No. 63.

[After alleging that in 1625–26 there was war between England and Spain, and that the goods in question belonged to Spaniards, and were loaded at Lisbon in the *Grey Falcon* and brought to England, the decree proceeds:] . . . the said sums of money, goods, things, wares, and merchandise, were, by the said Lord Conway, the aforesaid Vice-Admiral, or his deputy, duly and lawfully seized within the jurisdiction of his Vice-Admiralty,¹ as enemies' goods, for the use of the Lord Admiral; And that, since the seizure, the honourable George, duke of Buckingham, and the honourable Edward lord Conway, his Vice-Admiral, in pursuance of a warrant duly issuing from this court, caused to be duly and lawfully cited all and singular those who have, or claim to have, right, title, or interest, in the said sums of money, goods, things, wares, and merchandise, to appear before you [the judge], on a certain day, and at

¹ He was Vice-Admiral of Hampshire, and as such would get a share of the goods seized.

a certain hour, named in that behalf, and now past, and at a certain place, to shew cause why the said sums of money, goods, things, wares, and merchandise should not be confiscated, as enemies' goods, and adjudged and applied to the use of the said honourable man, George, duke of Buckingham, lord high Admiral aforesaid, and Lord Conway, his Vice-Admiral . . . [*the decree goes on to state that those cited made default of appearance, and concludes with a prayer that the Lord Admiral and the Vice-Admiral may be put into possession, all in common form.*]

HENRY MARTEN.

F. Rives.

Ric. Zouche.

. . . . dictae respective pecuniarum summae, bonaque, res, merces, et mercimonia predicta, per dictum virum dominum Conoway, Vice-Admirallum predictum, ejusve deputatum, uti bona inimicorum rite et legitime, infra jurisdictionem vice-Admirallitatis suae, in usum dicti domini Admiralli seizita fuerunt ; Quodque, citra dictam seizuram, praefati honorandi viri Georgius dux Buckinghamiae, dominus Admirallus praedictus, et praefatus Edwardus Conoway, ejus Vice-Admirallus (vigore warranti hujus curie, in debita juris forma executi), omnes et singulos jus, titulum, vel interesse in dictis pecuniarum summis, bonis, rebus, mercibus, et mercimoniis, habentes, seu habere pretendentes, ad comparendum coram vobis certis die, hora, et loco, in ea parte prefixis, jamque effluxis, ad dicendum causam quare dicta respective pecuniarum summae, bona, res, merces, et mercimonia, uti bona inimicorum confiscari, et in usum dicti honorandi viri Georgii ducis Buckinghamie, domini magni Admiralli predicti, et domini Conowaye, ejus Vice-Admiralli adjudicari et applicari non deberent rite et legitime citari fecit et procuravit. . . .

F. Rives,

Ric. Zouche.

HENRY MARTEN.

1626. Order in Council that, notwithstanding the direction to the contrary, if prizes taken on an outward voyage cannot, without loss of the voyage or danger, be brought to England, the captors shall not for that reason forfeit their bonds.—*P.C. Register* 33, f. 384.

Whereas amongst other orders and articles sett downe by the Board, according to the direction in that behalfe specified in his Majestie's commission to the Lord High Admirall for granting of letters of reprizall, bearing date the second of November last, in the third and fourth articles it is provided that all his Majestie's subjects to whome such letters of reprizall shalbe granted, shall give bond before the Lord Admirall, or his lieftenante judge of the Admiraltie, that they shall bring such shippes and goods which they shall take and apprehend to some porte of his Majestie's realme; And also that all goods taken by such letters of reprizall shall be kepte in safetie, and noe parte of them sould or diminished, or bulke broken, untill judgment hath first passed in the high court of Admiraltie thereupon, as in the said orders appeareth; Forasmuch as his Majestie, and this Table, have been informed by divers marchants, who desire to be assisted by letters of reprizall for their better safetie in their marchantly voyages, that the strict observation of the aforesaid recited articles cannot fittly stand with their courses, who, if they should, being outward bound, meete in their way with a prize, and happely overcome it, could not possibly turne home with

that prize, or send it hither with any parte of their necessary company, without either an other overthrow to their intended voyage, or an apparent hazard of the same, and therefore must, of necessity, breake bulke, and alien parte of their prize, as their occasions and other circumstances shall inforce them ; It is now, therefore, ordered by their Lordships, that if any such marchants, who shall by letters of marte, take hereafter any lawfull prizes, shall uppon their retourne home make prooffe before the judge of the Admiraltie for the time beinge in his Majestie's highe courte of Admiraltie, that, for the causes and reasons aforesaid, they or any of them have broken bulke, and disposed of their prizes, or part thereof, in forraine partes, contrary to the said orders and directions, then in all such cases noe advantage to be made or taken of any bond or covenant given, or entered into, or expressed in their commissions of reprizall to that effect, notwithstanding the former articles, or any thing therein contayned. Provided alwaies, that the persons imployed in the sale and alienatinge of the prizes, or any part thereof, shall yield a just and true accompt of the proceedue of the said prizes, or any part thereof, so aliened or disposed by them as aforesaid ; And that in all other thinges the conditions of the said bond given uppon takeing of the letters of reprizall, and all other clauses in the aforesaid commissions be satisfied and performed according to the tenor and purport of the same.

1626. Marten to Nicholas ; under his letters of reprisal a captor is entitled to his prize, whether it is captured on the high sea or in territorial waters.—*S.P. Dom. Chas. I*, Vol. xxxvi, No. 20.

Good Mr. Nicholas, I have received and perused your papers, which heerwith I returne you againe. I perceiue they contayne two cases, framed into two questions, and resolved by the opinion of Mr. Clerke. The former case concerneth a prize, belonging to the King of Spayne's subjectes, taken in Baltamore road by vertue of a commission graunted to Sir William Hull and Walter Ellys ; which prize Mr. Clerke conceiveth, as it seemeth, (for hee is somewhat obscure), to belong to the Lord Admirall, and not to the takers, because it was taken in the King's port or harbour. In truth I doe not well understand the reasons which are used by him to maintayn this his opinion, but I no way approve it. For, first, in takeing this prize in Baltamore road, they have the expresse warrant of his Majestie's commission to the Lord Admirall, and the Lord Admirall his commission to them, as is acknowledged by Mr. Clerke in these words : " To stay and apprehend the shippes and goods of the said King of Spayne and his subjects, wheresoever the same shall bee found upon the seas or in any port or ports thereof, within or without his Majestie's realmes and dominions, to answer their losses &c." Secondly, it must bee remembered that this commission is not of grace, but of justice ; for it is intended that none have theis Letters of Reprisall but such as have received losse and damage and wronges ; to whome his

Majestie, beeing not able otherwise to minister right and redresse of the wronges and losses, (a duty incident to his royall function), doth in this kind, and by this meanes, affoord justice and due satisfaction. It is therefore a strange conceit, in my apprehension, to imagyne that a subject wronged and damnified by the King of Spayn, or his subjects, should not relieve or help himself by surprizing the goods in his Majestie's own dominions, notwithstanding they have expresse words for it, and justice also approved by the consent of all civill nations. And why, forsooth? because all perquisitts and advantages gotten within the jurisdiction of the Admiraltie are graunted by his Majestie to his Admirall, and by him to his Vice-Admirall; amongst which hee meaneth are *bona inimicorum*; for hee not expressing his mynd, I must guesse what he meaneth, to make his words bear some sense. It is true that the King hath graunted to the Lord Admirall *bona inimicorum*, and many other emoluments apperteyning to the crowne, and more then dothe apperteyn to the crowne the King could not graunt to his Admirall. Then how doe *bona inimicorum* apperteyn to the crowne? Were there a solemn warr between us and the King of Spayn, it is notorious that whatsoever wheresoever any subject could gett from the King of Spayne's subjectes should bee his own *jure belli*, and not the Kinge's; neither could the King interest himself in more or other of such goodes then were gayned by his own shippes or forces. Now, because there is no such common or solemn warr, but a reprisall warr, this priviledge or benefitt is restrayned to them who have such commissions of reprisall. And it nothing altereth the case whether this reprisall man of warr gett

within or without the King's portes, or how they bee gotten, with blood and blowes, or without either; for according to that rule, *Cui licet quod est plus licet utique quod est minus*, albeit the King by his commission doth authorize his subjectes to gett from the Spaniards &c., to the recompense of their losse, though by killing and burning, yet without doubt it is, and must be conceived to bee the primary intention of his Majestie, if otherwise his subjectes can procure sufficient satisfaction, they should not shedd blood, and therefore it is but an error and mistaking to thinke that it is no good prize except it bee obteyned by stroke and hazard of life and limb . . . [*The other case was that of an English ship, which being in English waters, was captured by a Biscayan. Her crew had fled ashore, in fear of their lives, and after rifling her and having been in possession for an hour her captor abandoned her. The question was whether she belonged to the Lord Admiral as a derelict or to her original owners; Marten, again disagreeing with Clerke, was clear that her owners were entitled to her. After expressing his opinion to this effect, he concludes:] . . . Thus having satisfied your desire, which in my Lords' name you signifie unto me, I bid you farewell, and rest*
your loving friend,

H. MARTEN.

Kensington,
19 Sep. 1626.

1626. Sentence condemning to the captor, as good prize, a ship and corn cargo destined to the enemy.—*Adm. Ct. Libels* 82, No. 107.

. . . Therefore we, Thomas Rives, . . . [*in common form*] . . . pronounce, decree, and declare, that all and singular the quantities and kinds of corn in the Elizabeth, so brought as aforesaid to the western parts of this realm of England, together with the Elizabeth herself, and her furniture and apparel, were, by virtue of a commission of reprizal duly and lawfully granted under the authority of this court to the aforesaid John Forran, captured and seized by him and his ship the St. Stephen for lawful prize; and that all and singular the quantities and kinds of corn captured, as aforesaid, in the Elizabeth, and brought to this realm of England, were at the time of their capture, being carried and transported, [and the Elizabeth] was engaged and occupied in carrying and transporting them, for the sustenance and provision of subjects of the King of Spain, who are enemies to this realm of England, as more fully appears by the evidence and depositions of the aforesaid Thomas Rigg and other mariners of the Elizabeth, given and exhibited in this matter before us, and now remaining in the hands of the Registrar of this court, which evidence and depositions we hold and desire to be held as now read and inserted herein. And [we pronounce, decree, and declare], that no person whatsoever has put forward, or now puts forward, any claim to right, title, or interest in the said corn so captured in the Elizabeth, or to the ship herself, or to her furniture

or apparel. Therefore, we decree and declare that all and singular the aforesaid quantities and kinds of corn so captured as aforesaid in the said ship called the Elizabeth, and brought to this realm of England, and also the aforesaid ship called the Elizabeth herself, together with the apparel and furniture belonging to her, be handed over and delivered to the aforesaid John Forran ; And by this our definitive sentence, or this our final decree, which we pass and promulgate in this writing, we declare and adjudge that all and singular the quantities and kinds of corn aforesaid, and also the said ship called the Elizabeth, to have been captured and seized by him as lawful prize.¹

T. RIVES, surrogatus venerabilis viri
domini Henrici Marten.

. . . Idcirco nos Thomas Rives . . . [*in common form*] . . . omnes et singulas quantitates et species frumenti in dicta nave the Elizabeth ad partes occidentales hujus regni Anglie, ut prefertur, adductas, dictamque navem, the Elizabeth, ejusque apparatus et accessiones, vigore commissionis reprisaliarum antedicto Johanni Forran rite et legitime auctoritate hujus curie concesse, per dictum Johannem Forran, per navem predictam vocatam the St. Stephen in nave predicta vocata the Elizabeth pro preda legitima capta et seizita fuisse et esse ; omnesque et singulas species et quantitates frumenti in dicta nave vocata the Elizabeth, ut prefertur, captas, et in hoc regnum Anglie adductas, tempore capture ejusdem, sive earundem predicte, in transportando vel transfretando dictum frumentum in sustentationem et alimentationem subditorum Regis Hispanie, inimicorum et hostium hujus regni Anglie versatas et occupatas fuisse et esse, prout ex dictis et depositionibus

¹ No. 19 on the same file is a similar sentence.

antedicti Thome Rigg et ¹ aliorum nautarum dicte [navis] vocate the Elizabeth habitis et factis, et coram nobis in hujusmodi negocio exhibitis [et] datis, et penes Registrarium hujus curie remanentibus, plenius liquet, quas sive qua pro hic lect' et insert' habemus et haberi volumus, pronunciamus, decernimus, et declaramus; neminemque omnino jus, titulum, aut interesse in dicto frumento in dicta nave, the Elizabeth, ut prefertur, capto, vel in eadem nave, the Elizabeth, ejusque apparatus et accessionibus, vel eorum aliquibus pretendisse, vel adhuc pretendere. Antedictas igitur quantitates et species frumenti omnes et singulas in dicta nave vocata the Elizabeth ut prefertur captas, et ad hoc regnum Anglie adductas, necnon antedictam navem vocatam the Elizabeth, ejusque apparatus et accessiones ad eandem spectantes, antedicto Johanni Forran, in usum suum proprium, ac in ejus possessionem tradenda et deliberanda fore decernimus et declaramus; omnesque et singulas quantitates et species frumenti predictas, necnon dictam navem vocatam the Elizabeth, ejusque apparatus et accessiones ad eandem spectantes, antedicto Johanni Forran, pro preda legitima et prediis legitimis per eos, ut prefertur, captas et seizitas declaramus et adjudicamus per hanc nostram sententiam diffinitivam sive hoc nostrum finale decretum, quam sive quod ferrimus et promulgamus in hiis scriptis.

T. RIVES, surrogatus venerabilis viri
domini Henrici Marten.

¹ In original, in.

1627. By the King. A proclamation to prevent the furnishing of the King of Spaine and his subjects with provisions for shipping, or munition for the warres, and with victuals.¹—*S.P. Dom. Various*, Vol. x, No. 62.

Whereas His Majestie by his royall proclamation bearing date the one and thirtieth of December in the first yeere of his Highnesse reigne, for speciall causes therein at large expressed, did notifie to all manner of persons of all conditions that should send or carry into Spaine, Portugall, Burgundie, or any other of the King of Spaine's countries or dominions, any manner of graine or other victuals, or any manner of provisions to serve, build, furnish, or arme any ships of warre, or any kind of munition for the warre, or materials for the same, being not of the nature of meere merchandize, that he would not onely authorize his owne Admiralls and captaines of his owne shippes of warre, but would also allow and approove all other his subjects to arme their shippes, and with them to impeach and arrest all shippes that should saile either out of the East parts, or out of the Low Countries, or from any other parts, with intention to passe to Spaine, Portugall, Burgundie, or any other of the King of Spaine's countries or dominions, or to any the said King of Spaine's ships being on the seas having on board any such graine, victuall, provisions of warre, or furniture for shipping, or materialls for the same, and the same to bring into the next good port, there to be ordered as

¹ Cf. a similar proclamation of 15 Oct. 1628, on war with France; Rymer, xix, 1.

goods duely forfeited ; the causes whereof being not onely notoriously knowne to be most true, but also much conducing to the common good of all his Majestie's confederates and allies in Christendome, as in the said proclamation is set foorth, his Majestie well hoped would have produced that good effect which was desired. But because it is found by experience that in all states there will be found some ill disposed persons with whom private and particular gaine and advantage will more prevaile than any publique respects, of what consequence soever ; his Majestie, intending to remoove all pretexts of ignorance or other exceptions which may be taken against the proceedings of his judges and officers with any the subjects of his friends, confederates, or allies, who shall hereafter offend in the premisses, hath thought fit by these presents to make further declaration, as well of the species and kinds of the things so prohibited, as of the penalties to be suffered by the parties delinquent in supplying the enemies with the same prohibited things. Concerning therefore those kinds wherewith his Majestie may not suffer his said enemies to be furnished, his Majestie doth by these presents publish and notifie that he holdeth these things following to be of that qualitie and condition, viz., ordinance, arms of all sorts, powder, shott, match, brimstone, copper, iron, cordage of all kinds, hempe, saile, canvas, and Dantsic pouldavis, cables, anchors, masts, rafters, boate oares, barks, capraves, deale board, clap board, pipe staves, and vessells and vessell stuffe, pitche, tarre, rozen, okam, corne, graine, and victuals of all sorts, all provisions for shipping, and all munition of warre, or of provisions for the same, according to former declarations and acts of state made in this behalfe

in the time of Queene Elizabeth, of famous memory.¹

And, therefore, if any person whatsoever, after three months from the publication of these presents, shall by any of his Majestie's owne ships, or the ships of any of his subjects authorized to that effect, be taken sayling towards the places aforesaid, having on board any of the things aforesaid, or returning thence in the same voyage, having vented or disposed of the said prohibited goods, his Majestie will hold both the ships and goods so taken for lawfull prize, and cause them to be ordered as duly forfeited ; whereby, as his Majestie doth put in practice no innovation, since the same course hath beene held, and the same penalties have beene heretofore inflicted by other States and princes upon the like occasions, and avowed and maintained by publique writings and apologies, so now his Majestie is in a manner inforced thereunto by proclamations set forth by the King of Spaine and the Archduchesse, in which the same and greater severity is professed against those that shall carry, or have carried, without limitation the like commodities into these his Majestie's dominions.

Given at our Court at New Market the fourth day of March in the second yeere of the reigne of Great Britain, France, and Ireland.

1627. Order of Council to stay execution of a sentence for restitution of French goods.—*P.C. Register*, 30th March 1627.

Whereas the Board is informed that certain shippes and goods taken at sea by vertue of letters

¹ See *Eng. Hist. Rev.* xxiv, 691.

of marque belonging to the subjects of the King of Spaine have beene since claymed by Portugalls pretending themselves to be subjects of the King of France, as haveing beene naturalized and made denizons of that Kingdome; Whereupon by a proceeding in the courte of Admiraltie here the said shippes and goods have beene adjudged to be noe lawfull prize, as not belonging to the said Portugalls as subjects of the King of Spaine; Their Lordshipps upon consideration had therof, however they conceive the sentence of the said courte of Admiraltie, (in adjudging them to be noe prize), to be juste and to have beene orderly proceeded in, whereby a restitution of the said shippes and goods, according to the course of that courte, is to ensue; Neverthelesse, for that the said proprietors being, (by their owne confession), subjects of the King of France, the said shippes and goods are included in the general order and commission for stay of all French shippes and goods, it is thought fit and ordered that Sir Henry Martin, judge of the Admiraltie, doe cause forthwith certificate to be made of all such shippes and goods of the nature aforesaid as have beene already adjudged in the said courte of Admiraltie; and that noe execution be granted upon any such sentence; and that, in case any be already granted, or that any order have beene given by that courte for deliverie to the proprietors or their agents of any such shippes or goods, that the same be forthwith stayed and recalled; and the lyke course to be held for any suites which are yet depending and not sentenced, and soe from tyme to tyme, as often as any suites of the lyke nature shalbe brought into that courte; to the end that the Commissioners for the stay of French shippes and goods within the severall

ports of this realme may take knowledge of the same from tyme to tyme, and make stay of them accordingly. On which behalf the Lord Treasurer is hereby prayed and required to give speedie and effectuall order to the said commissioners for the stay of French shipps and goods within the severall ports of this kingdome.

1627. Order of Council that a prize ship be delivered to a French captain and crew, to be used by him as a privateer against the King's enemies.—*P.C. Register*, 1st June 1627.

Whereas, at the intercession of Monsieur de la Soubise, the Lord Admiral moved at the Board, that one of the prize shipps might be bestowed upon a French captaine called Stephen Petitfils, who had brought 50 mariners out of his country hether, with an intention to employ them in his Majestie's service, or on warrfaire at sea, with letters of reprizall, at his owne charges. And their Lordshipps, approveing the said motion, referred it to his Grace to make choice of such a French shipp as he should think meetest for that purpose. To which end choice hath been made by his Grace of the Nostre Dame d'Ollaune, of the burthen of 120 tunns, or thereabouts, whereof Jaques Sanne is master. The Board hereupon thought fit and ordered that the Commissioners for French shipps and goods shall be prayed and required accordingly to give present directions for the delivery of the said prize shippe La Nostre Dame d'Ollaune, with all her ordinance, apparell, furniture, and equipage to Captaine Stephen Petitfils aforesaid.

1627. The Council to Captaine James Duppa, Admirall of a squadron of ships appointed to garde the northerne coaste from Dunkirkers.—*P.C. Register* 36, f. 115.

By our letters of the 27th of this month wee gave you directions to sende two of the ships under your commande to garde and defende the fishermen of Great Yarmouth from the Dunkerkers, Frenchmen, and other pyrates. And forasmuch as wee have received advertisement that the Dunkerkers doe much infest those northerne partes, having landed and committed much spoyle in Shetlande and thereabout, Wee doe hereby further will and require you to ayde the ships of the United Provinces of the Lowe Countries, in the best manner that you shalbe able, against the Dunkerkers, and for that purpose to take with you, for your assistance, by vertue of these our letters, all such men of warre, being subjects of his Majestie, as you shall meet, and in particular those four shipps, which were appointed to garde the fishers to Island and Westmonie; And if you meet with Sir Sackvill Trevor, whom wee conceive you may finde about those parts, you are also to ayde and assist him with all your force, and to acquaint him with these our directions, and with the affronts and outrages done by the aforesaid Dunkerkers upon those northerne parts; And you are lykewyse to holde a very good and strict intelligence with him, to the ende that you may be more readie upon all occasions to helpe each other for the defence of the coast, and of his Majestie's subjects, and for the defeating of the common enemie. And so expecting your carefull performance of these our directions, wee bid you etc.

1627. The Council to the Earl of Totnes, master of the ordnance; directing him to supply Sir John Hippesley's Sweepstake with ordnance.—*P.C. Register* 36, f. 160.

Wheras Sir John Hippesley, Knight, hath made humble suit to the Board for lycence to buy out of the founder's stores eight sakers and two minions of iron ordnance, to furnish his ship, the Sweepstake, offering to put in good securitie not to alien the same; We, finding this request to be reasonable, have therefore thought good hereby to pray and require your Lordshipp to take order that the said Sir John Hippesley, or such as he shall appoynt, may have warrant to provide, at his owne charge, out of the said store, the foresaid peeces of ordnance. Provided that good securitie be given, (such as your lordshipp shall approve of), that the said peeces of ordnance or any of them be not aliened or sould as afore-said, with such other conditions as is usuall in lyke cases. For which this shalbe your warrant. And soe &c.

1627. Sentence condemning the captain of the Royal Exchange, East Indiaman, in an agreed sum, for not accounting to the Company for bullion captured in two Portuguese carracks.—*Adm. Court, Libels* 83, No. 50.¹

In the name of God, Amen. . . . [*in common form; reciting the letters patent of 1609 giving*

¹ The Latin original, all in common form, is omitted.

power to the East India Company to defend their ships against enemies and others, and to capture and keep for themselves as lawful prize the ships and goods of those who attacked them].

Therefore we, Henry Marten, . . . pronounce, decree, and declare, . . . that the said Michael Greene, in the years and months mentioned in the libel, or in some or one of them, was duly appointed by the aforesaid Governor and Company of London merchants, or by their agents or factors in the East Indies, and within the jurisdiction of the Admiralty of England, to be captain of a ship belonging to the aforesaid Governor and Company named the Royal Exchange; and that the said Michael Greene in the years and months aforesaid, or in some or one of them, whilst sailing and voyaging with the said ship, the Royal Exchange, and certain other ships owned by and belonging to the aforesaid Governor and Company, fell in with some ships of Portugal belonging to subjects of the King of Spaine, and was violently and in hostile sort attacked by them and their commanders and mariners, and, for the necessary defence of himself and his goods, was obliged to fight with the said Portugese ships; and that the said Michael Greene, with the said ship, the Royal Exchange, and the other ships belonging to the aforesaid Governor and Company, and by them or their factors or agents sent to sea as aforesaid, by reason of the fight and battle by him entered into for the necessary defence of himself as aforesaid, overcame two of the Portuguese ships called carracks, and out of them or one of them, or from the hands of divers officers or servants of the said Company, took into his own possession, for the use and benefit of the Governor and Company aforesaid, 8453

silver pieces called dollars, worth altogether £2100 of English money; and that the same Michael Greene has kept and converted to his own use the said sum of money, and has not handed it to the said Governor and Company or their servants, or made satisfaction for the same, and that he has been duly called upon to pay or make satisfaction for the same, but has failed to do so, and is now in default; nevertheless, by consent of the plaintiffs, and for lawful reasons moving us in this behalf, we condemn the aforesaid Michael Greene in the payment to the said Governor and Company of such sum of lawful English money as shall be ascertained in the carrying into execution of this sentence, and no more, and also in costs . . . [*in common form*].

Arth. Ducke.

HENRY MARTEN.

Ric. Zouche.

1627. Sentence condemning to the Lord High Admiral an enemy ship and cargo.—*Adm. Ct. Libels* 83, No. 84.

. . . Therefore we, William Sammes¹ . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid ship called the Francis of Landerneau, and the wines, grapes,² and other goods, on board her, so seized,³ as aforesaid, to the use of the lord high Admiral aforesaid, were, at the time of the seizure, the goods of enemies, and were rightly and lawfully seized and captured;

¹ The judge's surrogate.

² Racemones.

³ Arrested probably in an English port. The Admiral was entitled to such seizures under his patent.

and by this our definitive sentence . . . [*in common form*] . . . we adjudge and condemn the same as lawfull prize to the lord high Admiral aforesaid.

WILL. SAMMES.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam navem vocatam the Frauncis de Landerneau, ejusque apparatus ac vina, racemones, et alia bona in eadem sic ut prefertur in usum domini magni Admiralli predicti seizita, tempore seizure, bona inimicorum fuisse, ac rite et legitime capta et seizita fuisse et esse, pronunciamus, decernimus, et declaramus; Eademque pro preda legitima prefato domino magni Admirallo predicto¹ adjudicamus et condemnamus per hanc nostram sententiam diffinitivam . . . [*in common form*].

WILL. SAMMES.

1627. Sentence distributing a ship and cargo between joint captors.—*Adm. Ct. Libels* 83, No. 179.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . adjudge as lawful prize, the ship mentioned in the pleading, called the Angel of St. Malo, and all and singular the goods, things, wares, and merchandise, on board at the time of her capture, and specified in an inventory now in the hands of the Registrar of this court. But by this our definitive sentence . . . [*in common form*] . . . we pronounce, decree, and declare, and adjudge and condemn, one half of the value of the same goods, things, wares, and mer-

¹ *Sic.*

chandise, to be lawful prize captured by the aforesaid Mustaphi Rice¹ and his companions aforesaid.

F. Rives.

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . navem in allegatione menconatam, vocatam the Angell of St. Malloves, omniaque et singula bona, res, merces, et mercimonia tempore captionis ejusdem [*in eadem*] existentia, et in inventario penes Registrarium hujus curie remanente menconata, pro preda legitima adjudicamus; medietatem, vero, valoris eorundem bonorum, rerum, mercium, et mercimoniorum, pro preda legitima capta per prefatos Mustapho Rice, ejusque socios antedictos, eisdem tradendam pronunciamus, decernimus, et declaramus, adjudicamus et condemnamus, per hanc nostram sententiam diffinitivam . . . [*in common form*].

F. Rives.

HENRY MARTEN.

1627. Sentence condemning to the Lord Admiral and a Vice-Admiral of the coast enemy goods seized in England by the latter.—*Adm. Ct. Libels* 83, No. 182.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid representative of the Lord High Admiral of England and Lord Conway, his Vice-Admiral, has for the purpose of this sentence, given sufficient proof of and has established their contention put forward in their pleading, and that the aforesaid Louis Van Houtvill has failed to prove his contention . . . [*in common form*]. Therefore we . . . adjudge

¹ A Turk or Algerine? The other joint captor was Humphrey Slaney; No. 178 on the same File is the sentence condemning his half.

the aforesaid goods, things, wares, and merchandise, to the said Lord High Admiral and to Lord Conway, his Vice-Admiral aforesaid, and condemn the said Louis Van Houtvill¹ in costs . . . [*in common form*].

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam partem domini magni Admiralli Anglie et domini Connoway, ejus Vice-Admiralli predicti, intencionem suam in dicta sua allegatione sufficienter, (quoad inferius pronunciandum), fundasse et probasse, dictumque Ludovicum Van Houtvill in probatione contentorum in propositis ex parte sua defecisse et deficere pronunciamus, decernimus, et declaramus. Ideoque prefata bona, res, merces, et mercimonia, in schedula presentibus annexa memorata prefato domino magno Admirallo Anglie et domino Connoway, ejus Vice Admirallo predicto, adjudicamus; prefatumque Ludovicum Van Houtvill in expensis . . . condemnamus . . . [*in common form*].

1627. Sentence condemning pirate goods to the Lord High Admiral.²—*Adm. Ct. Libels* 83, No. 210.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid goods, things, wares, and merchandise, captured in the said ship called the Golden Herring, were, at the time of their

¹ The claimant to the goods. Edward Viscount Conway was Vice-Admiral of Hampshire; as to his duties as such see *Engl. Hist. Rev.* xxiii, 736. Nos. 40, 63, and 272 on the same File are similar sentences.

² In *Selden Soc. Ser.* xi, 187 is a similar sentence of 1598. *Adm. Ct. Libels* 81, Nos. 21, 32, 41, 136, and 141 are similar cases. *Ibid.* No. 118 is a proceeding against a ship master for selling abroad a pirate prize, and not accounting to the Admiral for the proceeds.

capture and seizure, according to proof [thereof] made before us, the goods of pirates. Wherefore by this our definitive sentence, . . . [*in common form*] . . . we pronounce, decree, and declare, that the same goods, things, wares, and merchandise, were rightly and lawfully captured and seized upon the high sea, and within the jurisdiction of the Admiralty of England, for the use of the said lord Admiral; and that the same, all and singular, except [only] the goods which in another proceeding [before me] have been adjudged to Humfrey Slaney,¹ or the proceeds thereof, or the moneys arising from their sale, ought to be handed and delivered to the lord Admiral aforesaid, or his assigns, for his own use.

Ric. Zouche.

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefata bona, res, merces, et mercimonia, sic, ut prefertur, in dicta nave, the Golden Herring, capta et tempore eorum in hac parte capture et seizure [existentia], bona piratarum fuisse et esse, juxta probationes coram nobis factas, pronunciamus, decernimus, et declaramus. Quocirca eadem bona, res, merces, et mercimonia, rite et legitime super alto mari et infra jurisdictionem Admirallitatis Anglie in usum dicti domini Admiralli capta et seizita fuisse et esse, eademque omnia et singula, et pretium, sive pecuniarum summas ex eorum venditione provenientes, exceptis bonis alias Humfredo Slanye in nave predicta adjudicatis, prefato domino Admirallo, sive assignato suo, in usum suum tradenda et deliberanda fore debere pronunciamus, decernimus, et adjudicamus, per hanc nostram sententiam diffinitivam . . . [*in common form*].

Ric. Zouche.

HENRY MARTEN.

¹ No. 178 in the same File is the sentence. There is another sentence, No. 267, condemning to Slaney other goods in the Golden Herring, which the Admiral had claimed as pirate goods.

1627. Sentence condemning a prize to the King.—*Adm. Ct. Libels* 83, No. 367.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare that the aforesaid party for our most serene lord, the King, has established and proved his contention set forth in his said pleading against the said ship, the St. Francis of Havre de Grace, and her apparel, gear, guns, and furniture, and against the said goods, things, wares, and merchandise, on board her, so far as is below declared. Therefore by this our definitive sentence . . . [*in common form*] . . . we adjudge to our most serene lord the King the aforesaid ship, the St. Frauncis of Havre de Grace, her apparel, gear, guns, and furniture, and the said goods, things, wares and merchandise on board her, except those that have been claimed in proceedings before us, and still remain undecided, that is to say, the goods mentioned in the schedule annexed to these presents.

F. Rives.

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam partem serenissimi domini nostri, Regis, intencionem suam in dicta sua allegacione contra dictam navem the St. Frauncis de Havre de Grace, ejusque apparatus, ornamenta, tormenta, et accessiones, ac dicta bona, res, merces, et mercimonia in eadem, (quoad inferius pronuncianda), fundasse et probasse, pronunciamus, decernimus, et declaramus. Ideoque prefatam navem, the St. Frauncis de Havre de Grace, ejusque ornamenta, tormenta, et accessiones, ac dicta bona, res, merces, et mercimonia in eadem, (exceptis bonis in eadem vindicatis, et coram nobis in judicio adhuc controversis et penden-

tibus indecisis, videlicet, bonis in schedula presentibus annexa menconatis), serenissimo domino nostro Regi adjudicamus per hanc nostram sententiam diffinitivam . . . [*in common form*].

F. Rives.

HENRY MARTEN.

1627. Sentence distributing a prize between joint captors.—*Adm. Ct. Libels* 84, No. 283.

. . . Therefore we, the said Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that the Portuguese ship called Nuéstra Señora del Rosario, and her apparel and furniture, and all the goods, things, wares, and merchandise, so captured in her as aforesaid, were and are rightly and lawfully captured; and that the same [are to be divided] amongst the captains, owners, proprietors, victuallers, soldiers, and mariners, of the said English ships, respectively, in the following manner, namely, that the said ship called the Dolphin is to have all the goods in the said captured ship called the Nuéstra Señora del Rosario; but the ship [called] the Willing Mind is to have for her share eight hundred pounds of good and lawful English money, and by this our definitive sentence . . . [*in common form*] . . . we divide, allocate, and adjudge [*the same*] accordingly.

Ric. Zouche.

H. MARTEN.

. . . Idcirco nos, prefatus Henricus Marten, . . . [*in common form*] . . . navem Lusitanicam vocatam the Nostra Señora de Rosario, ejusque apparatus et accensiones, et quecunque bona, res, merces, et mercimonia, in eadem, sic, ut prefertur, capta et seizita, rite et legitime capta fuisse et esse; Eademque pro preda legitima inter

capitaneos, dominos, proprietarios, annonarios, milites, et nautas, dictarum navium respective Anglicanarum juxta ratam sequentem, viz., ut dicta navis, the Dolphin, habeat omnia bona in dicta nave capta vocata Nostra Señora de Rosario et navem ipsam; navis vero the Willing Minde habeat pro porcione sua octingentas libras bone et legalis monete Anglie, sicque pronunciamus, decernimus, et declaramus, sicque dividimus, allocamus, et adjudicamus per hanc nostram sententiam diffinitivam . . . [*in common form*].

Ric. Zouche.

H. MARTEN.

1627. Sentence condemning a ship and her contraband cargo.—*Adm. Ct. Libels* 83, No. 286.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare that the aforesaid ship, the St. Peter of Schiedam, together with divers forbidden and prohibited goods, things, wares, and merchandise, on board her, destined to the parts of Spain, was, whilst on her voyage to the territories of the King of Spain, by the said captain Prynn, deceased, and his aforesaid companions, rightly and lawfully seized and captured on the high sea and within the jurisdiction of the Admiralty of England. Wherefore by this our definitive sentence . . . [*in common form*] . . . we pronounce, decree, and declare, adjudge, and condemn, the aforesaid ship, and her apparel and furniture, as lawful prize to the aforesaid John Barker and William Jones, the aforesaid executors [of John Prynn].

Ric. Zouche.

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam navem, the St. Peter de Schedam, unacum diversis bonis, rebus, mercibus, et mercimoniis,

in eadem, in partes Hispanie transportandis vetitis et prohibitis, in cursu suo versus territoria Regis Hispanie per dictum capitaneum Prynn defunctum, ejusque socios predictos, super alto mari et infra jurisdictionem Admirallitatis Anglie rite et legitime captam et seizitam fuisse et esse pronunciamus, decernimus, et declaramus. Quocirca prefatam navem, the St. Peter de Schedam, ejusque apparatus et accessiones, pro preda legitima prefatis Johanni Barker et Willelmo Jones, executoribus antedictis, eorumque sociis pronunciamus, decernimus, et declaramus, adjudicamus et condemnamus, per hanc nostram sententiam diffinitivam . . . [*in common form*].

Ric. Zouche.

HENRY MARTEN.

1627. Sentence condemning, as good prize, goods bought in Spain with the proceeds of contraband carried to Spain, and captured on the return voyage.—*Adm. Ct. Libels* 83, No. 471.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that, according to proof made before us, the said salt, so as aforesaid captured and seized in the said ship called the Black Lion, was bought with the proceeds of prohibited and contraband goods carried in the same ship to Spain, (in violation of the proclamation of the most serene lord our King, issued and published, forbidding the same), and there sold and disposed of; Wherefore, by this our definitive sentence, or this our final decree, which we pass and promulgate in this writing, we pronounce, decree, declare, and adjudge, that in accordance with the orders and instructions aforesaid the same salt and the said

guns be condemned to the aforesaid Captain Hall, and his company, as lawful prize, to be by them retained, or sold and disposed of in open market.

F. Rives.

HENRY MARTEN.

Will. Sammes.

Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam salem, sic ut prefertur in dicta nave, vocata the Black Lyon, captam et seizitam, ex pretio et venditione bonorum prohibitorum et illicitorum in eadem navi in hoc instanti viagio, (contra edictum serenissimi domini nostri Regis in contrarium editum et publicatum), in partes Hispanie transportatam, ibidemque venditam et dispositam, provenisse, juxta probationes coram nobis factas, pronuntiamus, decernimus, et declaramus ; Quocirca eandem salem et dicta tormenta, pro preda legitima, prefatis capitaneo Hall, ejusque sociis, per eos juxta ordines et instructiones predictos retinenda vel in publico foro vendenda et disponenda pronuntiamus, decernimus, declaramus, adjudicamus, et condemnamus per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum quam sive quod ferimus et promulgamus in hiis scriptis.

F. Rives.

HENRY MARTEN.

Will. Sammes.

1627. Sentence condemning a ship and her contraband cargo as lawful prize.—
Adm. Ct. Libels 83, No. 474.

In the name of God, Amen. Having heard etc. . . . [*in common form*] . . . And because by the Instructions of the honourable members of the Privy Council approved by our most serene lord, the King, by his commission under the great seal of England, it was ordered that, after adjudication in the high court of the Admiralty of

England, it should be lawful for merchants, and others, to keep in their own possession such and so many ships, and such and so many goods and merchandises as should be adjudicated to them, and either to sell the same in open market, or otherwise dispose of them to their better advantage, in as ample manner and form as has hitherto been the practice in reprisals, and the same to possess, own, and enjoy as lawful prize; Therefore we, Henry Marten, . . . [*in common form*] pronounce, decree, and declare, that the ship, the Red Fox, at the time of her capture, together with the goods laden in her, which are specified in the schedule annexed [hereto], was bound to the territory of the King of Spain, there to be unloaded, and that the said goods, things, wares, and merchandise, specified in the schedule annexed to these presents, according to proof made before us, were and are forbidden and prohibited goods, and that they were being carried to the parts of Spain. Wherefore, by this our definitive sentence, or this our final decree, which we pass and promulgate in this writing, we pronounce, decree, and declare, that the aforesaid ship, and her apparel, gear, guns, and outfit, and also the said goods, are either to be kept [by the captor, for his own use], or sold in public market for his better advantage.

F. Rives.

HENRY MARTEN.

Will. Sammes.

In Dei nomine, Amen. Auditis . . . [*in common form*] . . . Et quia, per instructiones honorandorum virorum a privatis consiliis per serenissimum dominum nostrum Regem per commissionem suam sub magno sigillo Anglie approbatas, ordinatum est, quod post adjudicationem in suprema curia Admirallitatis Anglie licebit

mercatoribus et aliis retinere in possessione sua tales et tot naves, taliaque et tot bona et merchandizas, qualia et quot eis adjudicabuntur, eademque in publico foro vendere, vel aliter pro meliori suo commodo de eisdem disponere, in tam amplis modo et forma prout unquam antehac per viam Reprizaliarum usitatum fuit, eademque uti praedam legitimam, et bona sua propria, possidere, gaudere, et frui; Idcirco nos, Henricus Marten, . . . [*in common form*] . . . navem, the Redd Fox, tempore ejus capture, una cum bonis in schedula annexa specificatis, in eadem onustis, in territorio Regis Hispanorum exonerandis, consignatam fuisse, ac dicta bona, res, merces, et mercimonia, in dicta schedula presentibus annexa, vetita et prohibita, in partes Hispanie transportanda fuisse et esse, juxta probationes coram nobis factas pronunciamus, decernimus, et declaramus. Quocirca prefatam navem, ejusque apparatus, ornamenta, tormenta, et accessiones, ac dicta bona, retinenda, vel in publico foro pro meliori suo commodo vendenda et disponenda pronunciamus, decernimus, declaramus, et adjudicamus, per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

F. Rives.

HENRY MARTEN.

Will. Sammes.

1629. Statement by Sir H. Marten of the case of the Marie, and his reasons for condemning her.—*S.P. Domestic, Charles I*, vol. dxxx, No. 54.¹

About the 10th of May 1629 the judge of the Admiralty by his sentence condemned a French ship called the Marie, otherwise the Devise, otherwise the St. Denis of Sables d'Olonne, captured by Captain West and his crew, pro-

¹ This document, carefully written in Latin, was probably intended to be read by French owners of ship or cargo, or by the French Government.

nouncing her to be lawful prize. And when, afterwards, the cause came up for a second hearing, upon the intervention of Vincentius Evon, John Pacquet, and their partners, subjects of the King of France, the same judge by a second sentence confirmed his former one ; and that with the approval of the most illustrious lord, the ambassador of the King of France, who declared that the owners or proprietors of the ship deserved to be punished. The merits of the case were as follows :

Captain West seized this ship on her passage to Oporto, in the territory of the King of Spain, and at the time of the capture there were on board her 300 small casks of tar, 3 casks of iron nails, 6 barrels of gunpowder, 5 packs of sailcloth, and 6500 anchor cables and ropes for ships. Therefore, since it is manifest that by every rule of law it is forbidden to carry to the enemy goods of this description, under penalty not only of forfeiture of the goods, but of far heavier penalties to be laid upon the persons of the carrier, no one, I conceive, can complain of the judge if, in accordance with the law and the ordinances of his King in that behalf, at the first hearing, when there was no appearance, and on the second, when the cause was carefully reconsidered, and the parties heard on both sides, he pronounced that the ship, caught in very act of committing the offence, had incurred forfeiture.

H. MARTEN.

Judex Admiralitatis citra 10^m diem Maii 1629, lata sententia condemnavit navem Gallicam nominatam le Marie, alias le Devise, alias Saint Dennis de Sable de Olona, captam per capitaneum West et socios, pronunciando eandem esse legitimam praedam. Cumque postea, intervenientibus quibusdam Vincentio Evon, Johanne Pacquet, et sociis, Galliarum Regis subditis,

et sese interponentibus, haec causa ad secundum examen esset revocata, idem iudex priorem suam sententiam, lata secunda sententia confirmavit, idque approbante illustrissimo domino legato Galliarum regis extraordinario, et asserente dominos sive proprietarios dictae navis sic ut mulctarentur commeruisse. Merita autem causae talia erant :

Capitaneus West apprehendit hanc navem navigantem versus Porto Port, infra dominia regis Hispaniarum, et tempore [capturae] erant in illa nave picis liquidae vel fluidae trecenta doliola, clavorum ferreorum tria dolia, sex dolia pulveris bombardici sive factitii, quinque sarcinae plenae pannis velaribus, sex millia et dimidium funium nauticorum vel anchorariorum. Cumque, igitur, notorium sit omni jure prohibitum esse ejusmodi merces ad hostes deferre, non modo sub poena amissionis bonorum, verum etiam poenis longe gravioribus personis deferentium infligendis, nemo (opinor) vitio vertet iudici Admiralitatis, si jura secutus, et regis sui sanctionibus in ea parte obsecutus, navim predictam in ipso crimine manifesto deprehensam, primo, absentibus contradictoribus, secundo causa denuo diligenter recognita, et auditis hincinde partibus, incidisse in commissum pronunciaverit.

H. MARTEN.

1629. Order of Council directing proceedings to be taken in the Admiralty Court against those who have spoiled ships of Algiers.—*P.C. Register* 39, f. 296.¹

Upon complainte this day made to the Board by the Earl of Warwick, and divers merchants of London, against Squire Bence, master of a shippe called the Assurance, and divers other masters of English shippes, for having taken divers Christian slaves and renegadoes out of a shippe of Argier, upon pretence whereof the inhabitants of Argier

¹ Dated 11th June 1629.

have lately made stay there of three prizes belonging to the saide Earle, and of a shippe of London called the Adventure belonging to the said merchants, amounting to the vallue of 30,000^{li} sterling, It was thought fitt and ordered that the judge of the Admiralty should be hereby required to take cognizance of the said cause, and to proceed therein according to the rules and practize of that court; Whereupon he is likewise to take sufficient bayle and caution, both of the said Bence, and the rest, to be answerable and abide such order therein as the court shall sett downe; And it was further ordered that a proctor be assigned by the said judge to prosecute on the behalfe of those of Argier, not only against the saide Bence etc. aforesaid, but against all other his Majestie's subjects who shalbe challenged by those of Argier to have broken the said peace. Hereof the said judge is required to have a speciall case, as of a matter of high importance.

1628. The captain of a King's ship is entitled to the best piece of ordnance in his prize.¹—*P.C. Register*, 5th July 1628.

Whereas Sir Sackvill Trevor, Knighte, captain of his Majestie's ship called the Assurance, having taken a French ship called the St. Esprit, for the taking whereof he was set foorth and employed in his Majestie's service to the Texell, hath humbly shewed that, according to the ancient customes, there doth belong unto him, as his fee in regarde of his qualitie of captaine, the best piece of brasse ordnance which was in the said ship

¹ The master of the Assurance claimed, and was allowed, the best anchor and cable, in like manner.

at the taking thereof, and hath thereupon made humble sute that the same may be delivered unto him, or a full recompence in lieu thereof. His Majestie this day sitting in counsell, was thereupon graciously pleased to grante his said humble sute made in that behalf. Whereof the officers of the ordinance are hereby required to take notice, and to see the same accordingly and effectually performed without dilay.

1629. A clause to be inserted in letters of marque forbidding hostilities within the Straits.—*P.C. Register* 39, f. 312.

Upon consideration and debate this day had at the Board of the complainte of the marchants tradeing the Levante seas for the damage and prejudice by them sustayned in their trade occasioned by the granting of letters of marque, their Lordships, well weighing how much it imports the service of his Majestie and the publique to give all incouragement and protection to trade in generall, especially to the marchants trading those seas, by whom soe greate a parte of the trade of this Kingdome is driven, have thought fitt and ordered that the judge of the Admiraltie shall, in all letters of marque hereafter to be granted, putt in a clause of exception restrayneing them from all actions of hostilitie within any partes of the Straights ; and likewise take sufficient bond of those to whom the same are granted not to give interrupcion to trade, or make seizure of any shippes in those parts according to the former directions of this Board, and according to the course and practize of former tymes, especially in the tyme of her late Majestie, Queen Elizabeth, of happie memory. Hereof the judge of the

Admiralty is required to take knowledge, and to give effectuall order therein accordingly.¹

1629. Commission to the Earl of Warwick
“to take in hand a voyage by sea.”—
Adm. Court, Miscellanea 545, f. 99.²

Charles by the grace of God King of England, Scotland, France, and Ireland, defender of the faith, To all and singular our officers ministers and subjects, of what estate or condition soever they bee, to whom theis presents shall come, Greeting. Whereas, at the humble suite of our right trustie and well beloved cozen, Robert Earl of Warwick, we have been pleased to give approbation and allowance unto him to take in hand a voyage by sea, intended and purposed by him, tending to the service of us and our realme, and to the increase of his owne experience and benefitt by his honorable endeavour for recoverie of his former losses heretofore received at sea; We, therefore, doe by theis presents license him, the said Earle, and such deputie and deputies which he shall nominate and appoint under his hand and seale, for whom he will answere, to take in hand the said voyage by him intended. And forasmuch as, for the better performance of this his intended voyage, he shall have occasion to [use] the helpe and assistance of divers of our subjects, who shalbe willinge thereunto, We will and straightlie command all those whose companie, assistance, or service, our saide cozen, or his

¹ Dated 19th June 1629. The Sultan of Turkey had arrested some English ships in reprisal for captures of Turkish ships; see *Adm. Ct. Libels* 89, No. 242; *Libels* 90, No. 183.

² This is a copy of an inspeximus. The Patent Roll reference is 4 Chas. I, pt. 32 d; and the words in square brackets are from there.

deputie or deputies, shall thus have occasion to use, to yeelde all dutie unto him and to his deputie and deputies, officer and officers, authorised and commandinge, or hereafter to bee authorised and commandinge by or under him, or his deputy or deputies, in this his saide enterprize or voyage, and to carrie themselves alsoe, each to other, in all good order and quietnes, for avoyding of any occasion that may breede quarrel, dissention, or disorder amongst them, to the hinderance of the service and good successe that is to be hoped for, through God's favour, in this honourable intended voyage. And hereof we doe straightlie charge all and every our saide subjects to take notice, and the same to observe, upon paine of such punishment to be inflicted upon them and everie of them offending contrarie to the tenour hereof as the saide Earle or his deputie or deputies shall see cause, by death or otherwise, and by martiall lawe in cases requisite ; And we doe by these presents give power and auctoritie unto the said Earle, or his deputie or deputies [in the said voyage], to execute and putt in practice martiall lawe as to him or them shall seeme most necessarie and convenient. And forasmuch as the saide Earle, and such of our loving subjects as shall assist and be imployed in the aforesaide voyage, and some other that may beare adventure with the saide Earle, are to have consideracion for their service, assistance, and adventure, Wee are graciouslie pleased, and hereby declare that we doe and will ratifie and allow to him and them, in such manner and proportion as he shall thinke fitt and agree unto, the distributions, interest, and disposing of, all shares and proportions of prizes and goods whatsoever, which shall be taken by the saide Earle of Warwicke, his deputie or deputies,

officers, ministers, and others that shall assist and serve under him in this voyage, from the Kinge of Spaine, or the Archdutchess, or from their subjects, or from the subjects of any prince or potentate which is not in league and amitie with us, or shall not be during the saide whole intended voyage. And we doe hereby licence and aauthorize him and them to take all such prizes, the same goods and prizes to be holden and enjoyed by our saide cozen, his deputie or deputies, and other our subjects aforesaid, without any accompt to be made for the same, or any part thereof, to us, our heires or successors, other then the full tenth of all such goods and prizes which we reserve to ourselves, and the said Earle doth willinglie and freely offer and agree to render and pay unto us, our heires and successors, in lieu of all such duties as may or might belong unto us, or to our Admirall of England, or in our court of Admiraltie, or in our Custome house, or for or in lieu of custome or other duties there or otherwise howsoever. And we doe also further straightly charge and command all and singuler our officers, ministers, and subjects whatsoever, to be ayding, assisting, and furthering unto the said Earle of Warwicke, his deputie or deputies by him for that purpose to be appointed, as well by sea as by lande, in anie thinge that he or they shall require to stand in need of for the further-ance of this our service at prices reasonable, and hereof not to faile, as they and everie of them will answere the contrarie att their uttermost perills. And lastlie wee doe hereby graunt that the saide Earle, his deputie or deputies, and his and their shippes boates or other vessells, and his and their mariners and men, shall and may from time to time and at all times, as there shalbe occasion, touch and lande upon any of our

dominions or coasts, ports, or places wheresoever for their watering or refreshinge, without being disturbed, molested, or interrupted by anie other of our subjects in any forraine colony, place, or plantation, soe longe as they demeane and carrie themselves well and orderlie, without doing violence or injurie to our subjects, the inhabitants of those parts, anie former grant, letters pattents, or priviledge to the contrarie notwithstandinge. And these our letters patents, or commission, or the duplicat thereof, shalbe, as well unto the said Earle of Warwicke as unto everie of our saide subjects, a sufficient warrant and discharge in this behalfe. In witness wherof etc. Witnes ourselfe at Westminster the first day of December in the fourth yeare of our raigne.

1627-1630. A confirmation of his Majestie's letter to the Hamburgers, that their shippes and free goods shall not be seizable for the prohibited goods, and that freight bee paide for the prohibited goods.—*Adm. Court, Miscellanea* 545, f. 85b; see also *P.C. Register* 17 Jan. 1628.¹

Whereas Peter Volckers, doctor in the civill lawe, agente for the merchants of Hamburrowe, hath by an humble petition presented to his Majesty, (which by his Majesty was referred to this Board), that his Majestie's Councell in his

¹ In *P.C. Register* 36, f. 162, is a long statement of the grievances of Lubeck in the same matter, together with the answer of the Council. *Libels* 83, No. 180, is the condemnation of a Lubeck ship. The Elbe was blockaded by an English fleet in order to stop the traffic in contraband, and Hamburg prepared a fleet of fifty ships to force the blockade; *P.C. Register* 35, f. 37.

Court of Admiralty doe withstande the execucion of his Majestie's gracious intencions and favours toward the subjectes of the King of Denmarke, and those of Hamburrough and the Haunce townes in league and amity with his Majesty, perticularly expressed in the cobby of his Majestie's letters dated in the moneth of June in the second yeare of his reigne, directed to the Burgomasters and Councill of Hamburrough aforesaid, and alsoe by other twoe letters written by the Lord Viscount Conoway, Principall Secretary of State, the one to the Lords of his Councill, dated the 22nd of Auguste last, and the other to Sir Henry Marten, knighte, judge of the highe Courte of the Admiralty, of the 26th of May, this presente yeare; As alsoe that the said Councill of the Admiralty doubt wheather those private letters, (as they terme them), can dispence with his Majestie's proclamation, whereby the subjects of the Kinge of Denmarke, the inhabitants of Hamburrowe and other Hanse townes above mentioned, cannot enjoy the fruits of his Majestie's good will and affection towards them; which three said letters doe followe in haec verba:

The letter, dated 2 June 1627, to the Burgomaster and Council of Hamburg follows. It is in Latin, and has been very inaccurately copied (all the papers are copies). The purport of it is as stated above. It refers to the war with Spain, and to an earlier letter declaring that all provisions and war material in any ships bound to Spain would be treated as contraband; but that, by special favour, Hamburg ships, having such goods on board, should not be prejudiced (i.e. be seizable as prize); and that freight on the goods should be paid. Conway's letter to Sir Henry Marten follows:

Sir,—I have heretofore signified his majestie's pleasure unto you, that, in such cases as come into the Courte of Admiralty, and concerne the merchants of Hamburrough, the proceedings

should be with as much favor, ease, and expedicion, as justice could admitt, and they expecte, as fruits of the good amity, which his Majesty is willinge and hath soe declared himselfe to hould with that Towne. Nevertheless complaintes are still made of much hard measure, and that you guide your proceedings accordinge to a former proclamacion, alledginge that particuler significations of his Majestie's pleasure are not sufficient warrant to dischargd the direccions by a publick proclamacion; And for as much as it much imports his Majesty, both for maintaineinge the honor of his owne royall word to the deputies of that towne, and for very weighty reasons of state, to use all courtly and frendly offices to theise subjectes, his Majesty is pleased to dispense with that proclamacion in cases of Hamburgers, soe farr as to give them as much freedome, benefitt, and good usages, within his dominions, as may bee challenged by the rules of the best and straightest amitye between Princes and States. And to this purpose his Majesty is ready and willing to give you any warrant that you shall require for your dischargd touching the said proclamacion. In the meane tyme his expresse pleasure is, that you forbear any sentence, commission, or other proceedinge, against any the merchants of Hamburrowe, and especially touchinge the St. Peter, certaine goodes in the Hope and St. Peter of Hamburrowe, untill, uppon notice from you what Acte will be requisite from his Majesty for giveinge those of Hamburroughe the full benefitt of the amity his Majesty doth entertaine with them, you shall have received his Majesty's pleasure and direccions] concerninge them. Soe, with the offer of my service, I remaine, [*etc.*]

Whitehall, 26 May 1628.

Conway's letter to the Council follows:—

Right honorable my singuler good Lords,—
The Ambassadors from the King of Denmarke did, uppon theire takinge leave of his Majesty here, recomende to his justice and favor a suite of subjectes of their Majesties. One Morrice Martinson, whose shippe called the White Swann, laden onely with deal boards, was taken from him by Captaine William Hulst, neere Sandwich, touchinge which case the Ambassadors alleadged that your Lordshipps had formerly, in favor of theire Majestys' subjectes, decreed deal boards and deale planckes to bee free merchantable comodities, not to bee made prize of, and therefore praied present order might bee given to release this shippe and her ladinge. His Majesty comaunded mee to recomend this same in his name to your Lordshipps, with this significacion of his Majestie's gracious pleasure, which he would have observed, both towards this man and all other the subjects of that King, and the merchants of the Hanse Townes in league with their Majesties that should come heither with complainte or suite that, accordinge to his Majestie's intereste and often reiterated promises by letters to the King of Denmarke, and verbally to his Ambassadors and his ministers here, in cases where the demands are cleerly juste, justice bee done without delay, trouble, or the least unnecessary charge; And that where there are scruples of noe greate consequence, favor and curtesie bee administered, answerable to the respects between his Majesty and the Kinge of Denmarcke, and reason of state, that this conjuncture of affaires requiers all freindly usage to the merchants of those townes, to keepe them in devotion to theire Majesties' service. The Judge of the Admiralty hath had such full and ample

expressions of his Majestye's good will and pleasure in this behalfe as more cannott be saide, which your Lordshipps may bee pleased to renewe unto him, as there shalbee cause, and to take such order that justice and favor bee yeelded to the subjectes of the Kinge of Denmarcke and those Hans Townes accordinge to his Majesty's just and royall intentions, without sufferinge any of them to come with complaintes to his Majesty for wante of due execution. This his Majesty recommends to your Lordshipps' best care, where I leave it. And humbly, etc.

From Southwicke 22th August 1628.

Order in Council, consequent upon the above letters :

Wee haveinge, according to his Majestie's commande, taken the said petition and copies of letters into our serious and mature consideracion, doe hereby pray and require Sir Henry Martin, Knighte, Judge of the said Admiralty, and all others his Majesty's officers and Ministers of the said Courte whom it may concerne, to give present and effectuall direccions that this order bee forthwith enregistered and recorded in the said Courte of Admiralty as an Acte of his Majestie's spetiall grace and favor towards the subjectes of the Kinge of Denmarcke and Hanse Townes afore-said, and likewise to take care that henceforwarde they may receive the benefitt and graces thereby intended towards them on his Majesty's behalfe, any thinge in the said proclamacion in any manner of wise to the contrary notwithstandinge ; and that provision bee made that notice bee taken of this his Majestie's royall will and pleasure accordingly in all Letters of Mart. Dated at the Courte at Whitehall the 17th of January 1628 [*subscribed by Tho. Coventrye and 14 others*].

The following Order in Council (*P.C. Register*, No. 39, f. 767) is connected with the above. Fresh difficulties had arisen as to (1) the proceeds of prohibited goods sold in Spain, (2) what are prohibited goods, and (3) Hamburgers' and other friends' goods in enemy ships. Payment of freight, it will be noticed, is not restricted to Hamburgers' goods only.

Ordered the 16th Ap. 1630.

Whereas a petition was delivered to his Majestie by Peter Volkers, doctor of law, agent for the cittie of Hamburrow, humblie making suit in the behalfe of the same cittie for divers exemptions and freedoms in matters of reprizall for the shippes and goods belonging to the said cittie, in consequence of some letters written from His Majestie to the said cittie, and of direcions given in His Majestie's name to the Judge of the Admiraltie in that behalfe, as by the said petition and coppies of the said letters more at large appeareth; Which petition was, on the 21st of March last, referred by His Majestie, under the hand of Mr. Secretary Coke, to the consideration and ordering of the Lords Commissioners of the Admiralty. And whereas the said Lords Commissioners did take the said petition into their mature consideracon and did thereupon, with the advice of the Judge of the Admiraltie, sett down their opinions concerning the points containd in the said petition, which was this day reported to the Boarde. Their Lordships in approbacon and confirmacon of what was soe agreed by the Lords Commissioners, and the Judge of the Admiraltie assisting them, did order as followeth :

First, that it may please his Majestie to extend his favour to the allowance of reasonable fraight for enemies goods caried in the ships of

those of Hamborough, or in the shippes of anie other his Majestie's allies to Spaine, or from Spaine to Hamborough, or to the countries of anie other of his Majestie's friends or allies, respectively, out of the Spanish King's dominions; but for Spanish goods carryed by them of Hamborough, or anie other his Majestie's friends or allies from port to port within the territories of the King of Spain, freight is not to be allowed in the case of such prizes, because they are not implied as merchants, but as hired servants of the said King and his subjects, and by extremitie of the law should loose their shippes and goods.

Secondlie: It is ordered that the proceeds of prohibited goods landed and sold in the Spanishe dominions by the said Hamburgers, or anie other his Majestie's friends and allies, shall not be confiscated in regard of the said prohibited goods, notwithstanding anie former proclamation or order from this Board to the contrarie, the same having since begotten manie contentions and much trouble, as by experience hath beene founde.

Thirdlie: It is ordered that implements properly belonging to household, as fireshovells, tongs, candlesticks, snuffers, locks, basons, kittles, bucketts, knives, nailes, wiers and such like shall not henceforward bee accounted for prohibited goods, but for lawfull merchandizes; only nailes proper for shipping, swords, and all weapons, metall for ordinaunce and what belong[ing] to the warre are prohibited and confiscable.

Fowerthlie: Whereas it is desired that all goods belonging to Hamburgers, and all other his Majestie's friends and allies, and shipped in enemies' shippes may not bee taken as lawfull prize, this being expressly contrarie to the lawes of the Realme, and besides giving scope to the

coulloring of enimies goods, cannot be dispensed with.¹

Lastly: It is ordered that Mr. Attorney Generall, with the advice of the Judge of the Admiralty, shall draw a proclamacion contayning in substance the points herein ordered, soe farr as is fitt to be laid downe in a proclamacion, and shall prepare the same for his Majestie's signature, to be reade att the Boarde.

1630. The Council, at the captor's instance, declare the meaning of the King's proclamation as to contraband.—*P.C. Register* 39, f. 612.

Whereas Frances Massola, a Genoese, did putt aboard the shipp St. Augustine of Genoa, burthen 160 touns, so much emptie wine vessell as could be stowed in the said shipp, and sayled therewith from Genoa to Alecant and Panifrula, in the territorie of the King of Spaine, in the ports whereof all the said vessells were landed, and a great part thereof left there; in retourne of which voyage the said shippe was seized at sea by Captain Anthony Wingfield, Vice-Admirall of the Earl of Warwick's fleet, in May last; for which shipp, with her lading, the said Earle had a suit in his Majestie's High Courte of Admiralty, to prove them lawfull prize; where sentence was deferred by reason of doubts raised by the Counsell of the said Massola, whether landing and leaveinge the said emptie vessells in the ports aforesaid could be understood as 'there disposed of,' which are the words in his Majestie's proclamation dated the 4th of March 2^o Caroli,² whereupon Sir Ferdi-

¹ See above, pp. 117, 328.

² As to this see above, p. 435.

nando Gorges, Knight, on the behalfe of himselfe and others, adventurers in the fleete aforesaid, petitioned his Majestie, and in September laste obtained a referrence unto the Boord for an explanation of the doubts aforesaid; and on the 18th of December Sir Henry Martin, Knight, judge of his Majestie's said court of Admiralty, and the Counsell on both sides were called before the Boord; at which time their Lordshipps did clearly explaine and declare that prohibited goods landed and left in an enemye's countrie are there disposed of, and a breach of his Majestie's said proclamation. The which explanation the Boord ordered this day to be entered in the Counsell book.

1630. Order of Council to the Vice-Admiral of Devonshire to allow a Dutchman, who had brought his Spanish prize to Plymouth, to depart with it.—*P.C. Register* 40, f. 103.

Monsieur Joachini, ambassador for the States Generall of the United Provinces, residing here, having complained unto us in a memoriall, (a copie whereof we send you here inclosed), that one Cornelius Van Oye, captaine of a shipp and pinnace of warre, belonging to the said States, being forced by contrary windes, did, the 4th of this instant moneth . . . putt into the haven of Plymouth, (where you command), and brought with him three prize shipps, that came from Spaine, intending there to provide some victualls and other necessaries, and being there, that on the 9th or 10th of this moneth, when he would have departed from thence, and shaped his course

towards Holland, with his prizes aforesaid, there to present them to the court of Admiraltie, according to his commission, where they are to be tryed and judged, he was forceably hindered from so doing by cannon shott, and his prizes detained in that place. Now, for as much as the said ambassador alleageth, and we conceive that those proceedings, (if they be true), are contrary to law, the good amitie, and correspondence betweene his Majestie and the said States, and the treaty made at Southampton in the yeare 1625, Wee doe, for those considerations and others knowne to ourselves, hereby expressly charge and command you in his Majestie's name that, unless you have some just and pregnant causes to the contrarie, (whereof you are to give us a particular accompte with all possible dilligence), you doe forthwith make an entyre restitution unto the said captaine Van Oye of his said man of warre, his pinnace, and prizes before mentioned, and not suffer any bulke to be broken, or anie of their goods, tackle, furniture, or lading to be brought on shore, upon pain of being made lyable by your dilay or refusall to pay all charges and dammages that be incurred by their longer stay and unnecessarie detention there. And so, not doubting of your carefull and speedie performance of these our directions, wee bid etc.

Postscript.—The said ambassador hath also complained to his Majestie about the stay of a shipp taken upon the coast of Portugall, and stayed there by you, as the taker of it tooke that port in his passage into Holland, concerning the which his Majestie gave order to our verie good lord, the Lord Viscount Dorchester, to write unto you, a speedie account whereof wee expect from you.

1630. The Council to Marten ; the holder of a letter of marque to go to sea, and not to trouble traders in the Thames.—*P.C. Register* 39, f. 771.

Whereas we are informed that Captain Cooke, commanding a man of warre, haveing taken forth letters of marque against the King of Spaine's subjectes, doth by colour thereof keepe within the river of Thames, and doth very much molest and fright the marchants passing into and foorth of the river, pretending to search for the goods of such as traffique unto Dunkirk, by which meanes the marchants are much discouraged in their trade to other places, as the officers of the customes doe informe ; Wee have thought fit to pray and require you to take order with the said Captain Cooke that, according to the use of other men of warre, who have taken foorth letters of mart, he doe transport himself to the open seas, to make prize of the enimies' shippes and goods, as he canne meete with them, and not to lie within the river of Thames, to the vexation and terror of his Majestie's owne subjects ; or otherwise, if he shall soe refuse to doe, to withdraw from him his letters of mart. And so wee bid etc.

1630. Extract from the patent to the Providence Island Company, granting Admiralty rights to the Company.—*Patent Rolls*, 6 Chas. I, pt. i, No. 1.¹

. . . And wee doe further alsoe for us, and our heirs and successors, give and graunte unto

¹ Providence and Henrietta are islands off the coast of Central America. The grant of Admiralty rights included the power to issue letters of marque ; and an Admiralty Court in the island condemned prizes ; see *C.O.* 124.

the said Governour and Company, and their successors, assignes, and deputies forever, all Admyrall rights, benefitts, and jurisdiction, and likewise all priviledges and commodities to the saide Admyrall jurisdiction in any wise appertaineing or belonging, in and uppon the seas, rivers, and coasts of the saide islands, and every or anie of them adjoineing, within forty leagues of the islands, and every or anie of them adjoining within forty leagues of the said islands, and in and uppon all other rivers and creeks within the limitts and bounds before mentioned, and likewise power to holde and determine all manner of causes and pleas for or concerninge the same . . . [*also powers to*] . . . resiste by force and armes, as well by sea as by land, and by all waies and meanes whatsoever, all and every such person and persons whatsoever as by any waies or meanes by sea or land have invaded, usurped, intruded, or entered into or uppon the aforesaid island or places, or anie of them, within the space of one yeare next and ymediately before the date of theis presents, or which shall enterprise or attempt at any tyme hereafter destruction, invasion, hurte, losse, detriment or annoyance to the said Governor and Company, or any of them, or to anie adventurers, planters, servaunts, tenaunts, ayders, or assisters of or with them, or any of them, in their said plantation or plantations, or of theire planters, servaunts, tenaunts, shippes, or men, in theire passage or residence there, or returneinge from thence ; And likewise by force and arms to recover from anie person or persons all such territories, dominyons, lands, places, goods, chattels, [or] wares, which hereafter shalbee taken from anie officers, planters, servaunts, or anie other members, aiders, or assisters of the saide Company, collony, or collonyes, or

plantation, or from any other our subjects, or others in amytye with us, in the said island, or coasts, or anie of them, or in defecte of such recovery of the lands or goods soe taken from them, to satisfie or relieve themselves uppon the parties soe offendinge, or doeing injurye, or other of the same nation or nations, by way of reprisalls, and takeinge of their shippes, goods, and men, or otherwise as they shalbe able for recompence and satisfaction of such losse and damage as they or anie of them shall sustaine in any such case. Neverthelesse our will and pleasure is and wee doe hereby declare . . . [*injunction not to harm friends, &c.*] . . . and, for the better restraineinge of all disorders in that kinde, our will and pleasure is, and wee doe for our heirs and successors hereby declare that yt shall not bee lawfull for anie person or persons, with anie boate, barge, shallope, pynnace, shipp or other vessell whatsoever, to bee sett out from the saide islands or places, or anie of them, to assaulte, surprise, take, or converte to their use, anie of the shippes, vessels, merchandize, treasure, money, plate, or other goods, or chattells whatsoever of or belonging to the subjects of anie prince in hostilitie with us, without speciall licence from the Governour and Company here, or otherwise then by the lawes or ordinaunces and constitutions of the said Company in that behalfe to bee made shalbe lymitted or appointed ; And if anie shall otherwise doe, then all shippes, vessels, merchandize, treasure, money, plate, or other goods whatsoever soe taken shalbe forfeited to the saide Governour and Company, and shall or may be seised by their officer or officers to their use, and the parties soe offendinge to be punished accordinge to the lawes and orders in that behalfe to bee made. [*Grant of exclusive trade, &c. &c.*]

1630. Sentence distributing a prize between joint captors.—*Adm. Ct. Libels* 85, No. 27.¹

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid Portuguese ship called Our Lady of Help, of Pinectra, and her apparel and furniture and the sugars and other goods, things, wares, and merchandise on board her, which were so captured and seized as aforesaid, were and are rightly and lawfully captured and seized by the joint endeavour, pains, and acts of the said ships called the Hopewell and the Swan²; and that they are to be, as of right they ought to be, divided, allotted, apportioned, and adjudged, amongst the owners, victuallers, soldiers, and mariners of the two ships respectively, rateably, according to their tonnage and to the number of men serving and being in them respectively, that is to say, ton for ton and man for man, according to the custom of the sea, and we so divide and adjudge them accordingly, that is to say, the whole capture is to be divided and distributed into four equal parts, of which three are to be allotted to the aforesaid Claes Cornelison and his companions, and one to the aforesaid William Prinn and his companions; and by this our definitive sentence . . . [*in common form*] . . . we adjudge the same three parts to Claes Cornelison for his share, and one part to the said William Prinn for his share.

F. Rives.

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatam navem Lusitanicam vocatam Our

¹ No. 29 is a similar sentence.

² She was of Flushing.

Ladie of Helpe de Pinectra, ejusque apparatus et accessiones et saccara et alia bona, res, merces, et mercimonia in eadem, sic ut prefertur capta et seizita, mutuis conatibus, industriis, et actibus, dictarum navium vocatarum the Hopewell and the Swanne, et nautarum inservientibus conjunctim, rite et legitime capta et seizita fuisse et esse, eademque pro preda legitima inter dictas naves, the Hopewell et the Swanne, earumque respective proprietarios, annonarios, milites, et nautas, pro rata portione, juxta quantitatem tonellorum earundem respective navium et numerum virorum in eisdem respective inservientibus et existentibus, viz., tonne for tonne and man for man, juxta maris consuetudinem, dividenda, allocanda, separanda, et adjudicanda, fore, sicque de jure debere, pronunciamus, decernimus, et declaramus, sicque dividimus, allocamus, et adjudicamus, viz. : Ut, tota preda in quatuor partes equales divisa et dispartita, tres partes cedantur prefato Claes Cornelison ejusque sociis, quarta vero pars cedatur prefato Willelmo Prinn ejusque sociis, dictasque tres partes dicto Claes Cornelison pro portione sua, vero quartam partem prefato Prinn et sociis pro portione sua adjudicamus per hanc nostram sententiam diffinitivam . . . [*in common form*].

F. Rives.

HENRY MARTEN.

1631 Sentence condemning contraband cargo, but restoring, out of grace, to their French owners the ship and free goods on board her¹; although search was resisted.—*Adm. Court, Libels* 88, No. 78.

In the name of God, Amen. . . . [*in common form*]. . . . Having heard &c. . . . We find that

¹ The general rule was to condemn both ship and cargo in such a case ; cf. *Adm. Ct. Libels* 84, *passim*. In *S.P. Dom. Chas. I*, dxxx, 54, is a letter of Marten to the Council giving his reasons for condemning the French ship Marie with her contraband cargo, and stating the law.

the aforesaid John Prynne and his fellows have given sufficient proof of their allegation, so far as concerns the arms, tar, and other prohibited goods that were being carried by the said Lizard and his fellows in the said ship, the Virgin, to subjects of the King of Spain, who was at that time an enemy to his majesty the King [of England] ; also touching the fight and bloody conflict between the said ships, the Thomas and Margaret and la Vierge, in which many of the King's Majesty's subjects perished miserably, and a vast quantity of goods, wares, and merchandise, belonging to and owned by Frenchmen, as well as Englishmen, were either sunk in the sea, or destroyed and lost, or embezzled by the crews of the one ship or the other ; so that by virtue of the King's proclamations the said ship, la Vierge, and [all] the goods on board her, might have been condemned as good prize. But because we are well aware that it is not the pleasure of our most serene lord, the King, that the subjects of the King of France should by reason of the premises suffer more [loss] than is necessary, therefore we, Henry Marten [*in common form*] . . . free and discharge the above named John Prynne and his fellows from the claim of the aforesaid Lizard, so far as concerns the goods specified in the first schedule annexed to these presents, seeing that they were on board the said ship, la Vierge, at the beginning of the fight, and we pronounce, decree, and declare, that he be so freed and discharged ; at the same time we restore to Lizard and his fellows the ship and the goods specified in the second schedule ; but touching the goods specified in the third schedule, these, or their true value, as against those to whose hands and possession they have come,

whether of Prynne himself or any other subject of our lord the King, we decree and declare by this our definitive sentence or this our final decree, passed and promulgated in this writing, that they must be restored to the said Lizard and his fellows.

HENRY MARTEN.

In Dei nomine, Amen. Auditis . . . [*in common form*] . . . nos, Henricus Marten, . . . invenimus partem prefati Johannis Prynne et sociorum intentionem suam quoad arma, picem liquidam, et alia bona prohibita, per dictum Lizard et socios in dicta nave, the Virgin, ad regis Hispanie subditos, tum Regis Majestatis hostes, transportata, necnon quoad pugnam et cruentum certamen inter dictas naves, the Thomas and Margarett et the Virgin, commissum, in quo nonnulli subditi Regis Majestatis misere perierunt, necnon plurima bona, merces, et mercimonia, tam ad Gallos quam ad Anglos spectantia et pertinentia, submersa vel consumpta vel deperdita, vel per navis utriusque partis marinarios subtracta fuerunt, sufficienter probasse, usque adeo ut vigore edictorum regionum dicta navis, the Virgin, et bona in eadem pro preda legitima adjudicari potuissent ; verum quia etiam nobis satis constat non placere serenissimo domino nostro regi ut subditi regis Galliarum occasione premissorum ultra quam necesse est paterentur ; Idcirco Nos Henricus Marten . . . [*in common form*] . . . prenominatum Johannem Prynne, ejusque socios, quoad bona in prima schedula¹ presentibus annexa specificata, casu quo in dicta nave the Virgin tempore inite et commisse pugne fuerunt, ab impetitione prefati Lizard et sociorum absolvimus et liberamus, et liberandum et absolvendum fore debere pronunciamus, decernimus, et declaramus ; Dictos vero Lizard et socios, quoad navem the Virgin, ac reliqua bona in schedula secunda presentibus annexa specificata, restituenda fore pronuntiamus, decernimus, et declaramus, prout eandem

¹ The schedules are annexed.

navem et bona in secunda schedula contenta iisdem Lizard et sociis restituimus ; quoad bona autem in tertia schedula mentionata, ea etiam, vel verum eorum valorem, dictis Lizard et sociis etiam restituenda fore decernimus et declaramus, adversus eos quorum ad manus et possessionem, sive dicti Prynne sive aliorum domini nostri regis subditorum, pervenerint, per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

HENRY MARTEN.¹

1631. Sentence condemning the owner of the Thomas and William to repay to her charterer salvage paid to him in respect of an English ship which had been captured by Dunkirkers, and afterwards, during the charter, recaptured by the Thomas and William.—*Adm. Court, Libels* 88, No. 161.²

In the name of God, Amen . . . [*in common form*] . . . Therefore we, Henry Marten, . . . pronounce, decree, and declare, that the above named Richard Williams, in the months and year pleaded, was the owner and proprietor, or, if not, was the master, of the ship called the Thomas and William, of the port of London, and of her apparel and equipment, and that he had power to let her out for freight for voyaging and carrying goods and passengers oversea ; and that on the 24th of July 1629 he let out and chartered the said ship, with her apparel and equipment, to the aforesaid

¹ There is no witness's signature.

² Sentences of the years 1593 and 1602 condemning the owners of cargo in a recaptured ship to pay salvage are printed in *Selden Soc. Ser.* xi, pp. 149, 205.

Benjamin Eldred for the sum of £100 of lawful English money, duly paid to him ; and that the said Richard Williams and Benjamin Eldred, being within the jurisdiction of this court, mutually agreed and contracted between themselves as is mentioned in the aforesaid charter-party, which is annexed to the aforesaid libel entered in this cause, now in the custody of the Registrar. And we [pronounce, decree, and declare,] that the said Benjamin Eldred and his fellows, proceeding on their voyage in the said ship, at the request and order of the same John Robson, who was the owner and proprietor of a certain ship with coals and other goods on board, which during her voyage from the port of Newcastle to the port of London had been captured on the high sea by subjects of the King of Spain or the Archduchess of Austria, from Dunkirk in Flanders who were in possession of her, recaptured and liberated this ship from her captors and spoilers, and compelled them to desert her, one old and feeble man only being left in her as she lay abandoned on the high sea ; and so, by the action of the said Benjamin Eldred, the master of the Thomas and William, and his fellows, the said John Robson regained lawful¹ possession of the aforesaid ship, and of her apparel and equipment, and of the coals and other goods in her ; and that the same Benjamin Eldred and his fellows being in possession of the same ship, and her apparel and equipment, and the coals and other goods in her, took her in twenty days, as she was, to the port of Elsenor, in Denmark, and there the said Richard Williams caused and procured her, recaptured as she was from the Spaniards, together with the goods in

¹ Though not actual.

her, to be arrested ; and the coals in her [he caused to be sold] at Elsenor, or near there, for 400 dollars, the dollar being worth at that time and place 4s. 7*d.* of lawful English money ; and those 400 dollars he was paid and converted to his own use ; And we further pronounce, decree, and declare, that afterwards the said Richard Williams, making further profit, was paid by the aforesaid John Robson, or others his fellows and partners, for the said ship so recaptured as aforesaid, and for her apparel and furniture, the sum of £89 of lawful English money, which, by his own confession and other proof duly made in that behalf, he disposed of as he thought fit. Therefore we further pronounce, decree, and declare, the said ship so recaptured, together with her apparel and equipment, and the coals in her, to be prize by lawful recapture, and we condemn the said Richard Williams in a sum to be assessed in working out this sentence and also in costs . . . [*in common form*].

In Dei nomine, Amen. Auditis &c. [*in common form*]
. . . Idcirco Nos Henricus Marten . . . prenommatum Richardum Williams mensibus et anno in hac parte libellatis dominum et proprietarium, saltem magistrum, navis vocate the Thomas and William, portus Londoniensis, et ornamentorum et apparatus ejusdem navis, fuisse, et potestatem dimittendi eandem navem pro viagio et transportatione bonorum et hominum ad partes transmarinas pro naulo habuisse ; Et vicesimo quarto die Julii, anno domini 1629 libellato, pro summa centum librarum legalis monete Anglie ei debite soluta, eam dictam navem, et ejus ornamenta et apparatus, prefato Benjamine Eldred ad naulum locasse et dimisisse ; Dictosque Richardum Williams et Benjaminum Eldred infra jurisdictionem hujus curie inter se convenisse et pactum iniisse ad invicem prout in predicta charta indentata libello predicto in hujusmodi causa dato

annexa, et penes Registrarium remanente continetur, pronunciamus, decernimus, et declaramus; dictumque Benjaminum Eldred et socios suos in dicta nave in eorum viagio procedentes, ad rogatum et requisitionem ejusdem Johannis Robson, domini sive proprietarii cujusdam navis cum carbonibus et aliis bonis in eadem a portu de Newcastle versus portum Londoniensem onerate, dictam navem et carbones et alia bona in eadem a subditis regis Hispaniae, vel Archeducissae Austriae, portus Dunkirke in provincia Flaundriae, qui eandem navem cum carbonibus et bonis predictis super alto mare more bellico ceperant, et in possessione ejusdem fuerunt, recuperasse et acquietasse; dictosque raptos et spoliatores dictam navem spoliatam deserere compulisse; et super alto mare (uno tantum homine senio confecto in eadem derelicto), reliquisse, et sic ratione ejusdem dictum magistrum Benjaminum Eldred et socios per eorum satellites et nautas legitimam possessionem navis predictae, et ornamentorum et apparatus ejusdem, et bonorum et carbonum in eadem oneratorum, habuisse; eundemque Benjaminum Eldred et socios, in possessione ejusdem navis et ornamentorum et apparatus et carbonum et aliorum bonorum in eadem oneratorum, existentes, eandem navem cum carbonibus oneratis, et cum ejus ornamentis et apparatu, ad portum de Elsanore, in regno Daniae, infra viginti dies tunc proximo sequentes adduxisse; et in eodem portu dictum Richardum Williams eandem navem sic a subditis regis Hispaniae recuperatam, et bona in eadem, arrestari fecisse et procurasse, et carbones sic in nave recuperata oneratos, in dicto portu de Elsanore seu aliis locis adjacentibus, pro quadringentis dolleriis, (Anglice, fower hundred dollers), vendidisse, et valorem cujuslibet dollerii (Anglice, of every doller) tunc temporis in illis partibus ad quatuor solidos et septem denarios legalis monete Anglie extendisse; eademque quadringenta dolleria recepisse et ad usum suum applicuisse; posteaque dictum Richardum Williams, ulterius lucrum facientem, summam octoginta et novem librarum similis monete pro dicta nave sic recuperata, et pro ornamentis et apparatu ejusdem, a

prefato Johanne Robson, seu aliis sociis sive consortibus suis, recepisse et ad libitum suum disposuisse, juxta confessionem dicti Richardi Williams et alias probationes in hac parte legitime factas, etiam pronuntiamus, decernimus, et declaramus. Dictam igitur navem sic recuperatam, cum ornamentis et apparatusibus suis, et cum carbonibus predictis onust' pro praeda legitime recuperata etiam pronuntiamus, decernimus, et declaramus; dictumque Richardum Williams [tam] in summa in executione sententiae liquidanda, quam in expensis . . . [*condemnation in common form*].

William Merick.

H. MARTEN.

1634. Pleading as to the law touching friends' goods in an enemy ship, and the Spanish treaty of 1630 thereon.¹

The defendant's pleading, after reciting the treaty, by which it was agreed that neither party to it should ship their goods in Hollanders' ships, and that such goods should be good prize, goes on to state that the plaintiff was an Englishman, and that the goods in controversy had been shipped by him in the captured ship, which was a Hollander; and that the defendant had captured her on the high sea, and had taken her to Dunkerque, where she was condemned as prize by the Spanish Admiralty court. The plaintiff's rejoinder (No. 261 on the same File) states that, notwithstanding the treaty, the practice of the Spanish court had been to restore English goods captured in Hollanders' ships; that the goods in question were shipping materials, which the King had by proclamation directed to be brought to England; that they were shipped in a Flemish bottom because there was no English ship at Amsterdam; and that the capture was illegal, because it was made 'in the King's chamber, and within commande of His Majestie's forte, and within sight of Dartmouth.'

¹ The sentence is below, p. 490.

6. Item, That, as well by the generall lawe, civill and marine, as by the statute lawe of the realme of England, if a man of warr, sett out by letter of marque or commission, take a shipp belonginge to enimies against whome he is sett to sea, although goods in her belonge to frinds or allies in league and amitie with the states from whence he hath his commission, not onelie the shipp belonginge to enimies, but alsoe the goods belonginge to frinds taken in an enimies' shipp are, and ought to bee adjudged to the takers lawfull prize. And soe duringe the late warrs betweene Spain and England, it hath bine, and was continuallie and constantlie in the high Court of Admiraltie of England practiced, sentenced, observed, and adjudged; and such for many yeares past hath bine and is the use, practice, and judgment in the Court of Admiraltie of Flanders, Holland, and other countries in causes of that nature come to bee decided.

1636. Order of Council directing the arrest of the Compass of Horne that had sunk the Elizabeth in Falmouth harbour.—
Adm. Ct. Libels 92, No. 138.

Having taken due consideracion of the losse and dammage susteyned by Captaine Richard Bradshaw, captaine of the Elizabeth of London, which was sunke in the harborough of Falmouth about 4 yeares since by a Dutch shippe called the Compasse of Horne, whereof one Peter Tuneson was master, which Dutch shippe, being arrested for the said dammage, was rescued and carried away by a Dutch ffeete consisting of divers Dutch shippes then ryding in that harborough;

And having duely weighed the several reports of the 22nd of March 1632 and of the 7th of this instant May made unto us by Sir Henry Marten, knight, judge of the High Court of Admiralty, of the true state of the said captaine's case ; And likewise considering the captaine's earnest solicitacions, as well of the States Ambassador here, as of some of the States themselves in the Low Countries, for reasonable satisfaccion, which hath not in all this time been rendred unto him, notwithstanding many faire promises thereof have bene made ; Wee have therefore thought good, and doe hereby will and require you, and every of you, forthwith to take effectual order to arrest and make stay of the said shippe, the *Compasse of Horne*, and her master, or some other of the Dutch shippes that were of her company, when the said rescue or escape was made, or any other shippe or vessell of the Towne of Horne, assoone as any of them shall come under the command of either of His Majestye's said castles, and to deteyne the same till they shall have given satisfaccion to the said Captaine Bradshaw and his Companye or untill further order from us. Hereof you are to be very carefull and dilligent, as you will answere the contrary : For which this shalbe your warrant. From London howse this 28th day of May 1636.

To our loving friends Sir Nicholas Stanning, Knight, Captaine of his Majesty's castle at Pendennis, and to Capt. Haniball Bonithon, Leuitenant of his Majestye's Castle at St. Mawes, and to either of them.

1634. Order for composing a Reglement for the Narrow Seas.—*Add. MSS.* 30221, f. 43b.¹

The Lords Commissioners of the Admiralty of England, having this day taken into serious consideration the many depredations, violence, and hostile Acts, committed in the Narrow Seas, and even within His Majestie's Ports and Chambers, by men of war, to the dishonour of His Majestie's sovereignty in those seas, the discrediting of His harbours, and the infinite disturbance and prejudice of trade, have ordered, and do accordingly pray and require Sir Henry Martin, Knight, judge of the Admiralty, and Mr. Attorney General, forthwith to consider of, and compose in writing, a fit Reglement, agreeable as well to former Proclamations, Orders, and Constitutions made and declared upon the like abuses, as to the present times and occasions, whereby, as well His Majestie's ancient right, honours, and sovereignty, in the narrow seas, and in his chambers and ports may be preserved, and the trade of the Kingdoms of England and Ireland secured, as the protection of his Majestie's friends and allies in the same assured and kept from violence and injury.

Feb. 1633.

EDWARD NICHOLAS.

⁵ Reglement for the Narrow Seas, anno 1634, there being then war between the King of Spain and the States General; which Reglement sets forth the King of England's Sovereignty in the four seas.

¹ A copy; the original has not been found, and no reference is given.

His most excellent Majestie, taking it into his royal consideration upon the frequent complaints, as well of his own subjects as the subjects of other princes and states in peace and amity with his Majesty, that the seas, commonly called the four English seas, are more infested nowadays than heretofore by men of war and such others who, living by spoil, haunt these seas with ships and vessels of strength warlikely appointed to get prey and bootin, whereby, not only his Majestie's own subjects, and the subjects of his friends, suffer manifold losses, violencies, and injuries, in their persons, ships, and goods, but also divers strange insolencies, indignities, and contempts committed indirectly and by consequence, to the denial or impeachment of that sovereignty, and special and particular interests and propertie, which his Majesty and predecessors, time out of mind, have had and enjoyed in the said sea, and so approved, not only by the fundamental laws of this his kingdom, but the assent and acknowledgment of the bordering princes and nations, as appears by undoubted records ; his Majesty, out of his princely wisdom and providence, with the advice of his Privy Council, hath thought it most necessary as well for vindicating his own honour and right in the said seas, as in point of justice for securing the passage of his subjects and friends to and from his harbours and ports and all other places of his dominions, to make this open declaration ensuing :

That notwithstanding the continuance of the war between the King of Spain, on the one side, and the United Provinces of the Low Countries, on the other side, his Majesty does strictly prohibit any force, violence, surprize, or offence, to be done or attempted either from man of war to

man of war, or from man of war to merchant, or merchant to merchant, of either part, within the limits that his Majestie will cause to be described in a plot for that purpose ; but that all, of what nation soever, so long as they shall be upon those places or seas aforesaid within such limits shall be understood to be under his majestie's protection, and obliged to be at peace with each other.

Because it appears that an especial occasion of the mutual spoils and acts of hostility executed by the said men of war, each upon other, and sometimes upon his Majestie's own subjects, or the subjects of other nations, which are in amity with the sovereigns of the spoilers, arrises from the opportunity which the said men of war have by continuing and abiding in havens, sea-rounds¹ and other harbours of his Majestie's Kingdoms, whence they get intelligence of ships and vessels outward and hitherward bound, and accordingly assail them where it is most for their advantage, to the great hinderance and interruption of free commerce and intercourse, his Majestie's will and pleasure is that, for the reasons aforesaid, no ships of war belonging, either to the King of Spain or any his subjects or the said United Provinces or any of their subjects, shall be permitted or allowed to come, enter, repair, or arrive in or to any of his Majestie's towns, cities, seashores, havens, harbours, or sea-roads whatsoever, or there to abide or continue, except they happen to be constrained, either by force of tempest or buying of victuals or other things, or for repairing of shipping, so that they do no hostile act in the said places, but demean themselves honestly and quietly, as it becomes confederates

¹ Qy. roads.

and friends, and so that they stay and remain not in and about the said ports any longer than shall be needful for reparation and provision of victuals.

Albeit his Majesty does justly challenge the sovereignty and propriety in all those his seas, far beyond the limits hereafter to be described, and might with like justice require from all persons using those seas to forbear from all injuries and hostile actions, yet in and through all the same so to tie the hands of his friends and allies in open hostility each with other is not for some reasons held convenient at this time, and therefore to avoid all difficulties and manner of controversies that may be stirred concerning the bounds and extent wherein his Majesty now professes to yield peace and security to his friends and neighbours during the same, his Majesty proposes to send plots¹ of these limits to be affixed in the most publick places of his chiefest sea-towns and harbours.

Because it is very likely, during the continuance of the war between the King of Spain and the United Provinces, as is aforesaid, each party

¹ This is figured in Selden's *Mare Clausum*, p. 239, and there is a facsimile at Queen's College, Oxford; see also *S.P. Dom. Jas. I*, xiii, Nos. 11 and 12, and *Lansd. MSS.* 198, f. 117, for a note of the headlands of England. The Hollanders contended that by the law of nations 'no prince can challenge further into the sea than he can command with a cannon, except gulfs within their land, from one point to another.' *S.P. For. Holland*, lxvi, f. 261. In 1639 Gerbier writes 'They (the Hollanders) cannot acknowledge His Majesty to have any further jurisdiction on the seas than within reach of cannon shot.' At one time the buoys or sea beacons seem to have been claimed as the limit; a capture is complained of because it was made 'far within the beacons'; *S.P. Holland*, lxiv, p. 100. Cf. 'infra metas Anglie,' Cl. 28, Ed. III, m. 14 d.

may gain and acquire from other, in places out of the aforesaid limits, ships and goods, his Majesty does declare that he will afford to the conquering parties free passage through his seas for themselves, their ships and prizes, and likewise free access and repair to all his ports and harbours, and safe abode and continuance in the same, during their occasions, so his Majesty shall not understand it to be any breach of his peace, or violation of that security which he intends to maintain, if the enemy of the conquering party shall reconquer or regain the said prizes before the conquering party shall have brought the said prizes into his Majesty's harbours, or when, after they shall have departed with the said prizes homewards or elsewhere from the said harbours, the right of war and law of nations giving like allowance to either of the said hostile actions, provided always that his Majesty does not mean hereby to derogate from the jurisdiction of his Court of Admiralty; but if any action in form of law shall be lawfully instituted and duly prosecuted in the Admiralty Court against the said prizes, and the takers thereof, his Majesty will cause justice to be administered in that behalf with all possible expedition.

Whereas mention is often made in the premises of his Majesty's protection within the aforesaid bounds and limits, his Majesty is now pleased further to express his intention and meaning to that effect, viz., That he shall give his letters patent of safe-conduct under the great seal of his Admiralty to any the subjects of the princes and states in amity with his Majesty desiring the same from the Lords Commissioners of the Admiralty, to whom his Majesty refers the consideration and allowance of such petitions. And if any man of

war, or other person whatsoever, shall assault or use any violence to any ship or vessel or other persons therein, shewing forth the safe-conduct within the limits aforesaid, his Majesty will hold such offenders, being lawfully convicted thereof, for pirates, and will cause his officers to inflict such punishment thereupon as in cases of piracy is usual, if the said offenders can be apprehended within any his Majesty's countries or dominions, or any other ships or goods belonging to them, to which purpose his Majesty will give notice from the Court of his Admiralty to all his officers in ports, Vice-Admirals, and captains of his forts and ships. But if, all this notwithstanding, the said offenders cannot be attached or apprehended, then the parties wronged, upon sufficient testimonies to be recorded in the Court of Admiralty, may take out of the said court a process containing a monition for the said pretended offenders to appear in the Court of Admiralty within four months next after the date of the said process, to be affixed openly in some convenient place of the Royal Exchange, London; and if the said offenders shall not then render their bodies to justice, then upon faith made that the said process was duly taken out, and the next day after the date thereof was publickly affixed as is aforesaid, his Majesty will by his letters of request under his privy seal to the sovereigns of the offenders, or otherwise, pursue such further proceedings against the said offenders as is agreeable to the custom of sovereign states and princes, and the law of nations in like cases.

Following this are (*Ibid.* f. 49) two opinions of the Trinity House as to the limits of the British seas. One, dated 2 Jan. 1668, says that the English Channel is entered when Scilly is brought N.N.W. The other,

dated Nov. 1686, is vague as to the limits of the Cinque Ports' jurisdiction, but states that captures made in the Downs and Dover roads, within two or three miles of the shore, have been dealt with by the English courts.

1634. Sentence condemning a captor in damages and costs for an illegal capture.—*Adm. Ct. Libels* 92, No. 43.¹

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . [pronounce, decree, and declare] that the aforesaid Humphrey Hooke and Thomas Hooke, in the years and months mentioned in the libel, were, and [now] are, the owners and proprietors of the goods, things, wares, and merchandises specified in the schedule annexed to the said libel; And that the said goods, things, wares, and merchandises, were

¹ The St. Peter was a Hollander, and the goods on board were English, which by the treaty of 1630 would have been good prize to the Spanish captor, had the capture been upon the high sea outside territorial waters. The St. Peter had been already condemned as good prize by the Admiralty Court at Dunkerque, and the goods seem to have been subsequently brought to England and claimed by their owner, upon the ground that the capture was made in Dartmouth or Start Bay, in the King's 'Chamber.' Upon the appeal, which was unsuccessful, a certificate from the Court at Dunkerque was produced stating '*eamque capturam factam fuisse circa vel potius extra locum cui nomen Ganstert, ad minimum quatuor vel quinque milliaribus a terra vel littore Anglicano, ita ut littus Anglie, quod in illis partibus satis eminet, ab ipsis vix posset conspici*'; Ganstert being Start Point, and the miles Dutch miles, equal to three or four English miles. This certificate was evidently not believed by the English Court. See *Libels* 90, Nos. 223, 261; *Delegates Sentences* 11, 9 Jan. 163 $\frac{7}{8}$; and *supra*, p. 481.

laden [in the said ship] by one Peter Allen, the factor or agent of the said Humphrey and Thomas Hooke, to be delivered and made over [to them]; And that, after and since the loading of the said [goods], the said ship, the St. Peter, together with the said goods, things, wares, and merchandises laden in her as aforesaid, was unjustly and illegally captured and seized by the aforesaid Jasper Burte and his associates; And that the said goods, things, wares, and merchandises, so loaded in the said ship, the St. Peter, as aforesaid, and captured in her, were unjustly and unlawfully captured and seized; And that the same goods, at the time of and since their capture were of the value of £1507 4s. 6d. of lawful English money. Wherefore . . . [*condemnation of Burte in £1507 4s. 6d. and costs in common form*].

Tho. Eden.

H. MARTEN.

Ric. Zouche.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatos Humphridum Hooke et Thomam Hooke, annis et mensibus in hac parte libellatis, dominos et proprietarios bonorum, rerum, mercium, et mercimiorum, in schedula dicto libello annexa mentionatorum fuisse et esse; Dictaque bona, res, merces, et mercimonia per quendam Petrum Allen, factorem sive negotiorum gestorem dictorum Humphridi et Thomae Hooke tradenda et deliberanda onerata fuisse; Ac post et citra onerationem eorundem, dictam navem the St. Peter, unacum dictis bonis, rebus, mercibus, et mercimoniis in eandem navem ut prefertur oneratis, per dictum Jasperum Burte, ejusque socios, injuste et illegitime captam et seizitam fuisse et esse; Dictaque bona, res, merces, et mercimonia, in dictam navem the St. Peter ut prefertur onerata, et in eadem nave capta, injuste et illegitime capta et seizita fuisse et esse; Eademque bona tempore capture eorundem, anteaque et citra, summam mille

quingenta et septem librarum quatuor solidorum et sex denariorum legalis monetae Angliae valuisse. Quocirca prefatum Jasperum Burte . . . [*condemnation in £1507 4s. 6d. and costs in common form*].

Tho. Eden.

H. MARTEN.

Ric. Zouche.

1635. Commission to Capt. William Cobb to command the Samaritan and the Roebuck, on a voyage to the East against infidels and princes not in amity with England, 'Beyond the line equinoctiall.'—*Adm. Ct. Interrogatories* 13, No. 31.¹

CHARLES R.

Charles, by the grace of God Kinge of Greate Brittain, Fraunce, and Ireland, defender of the faith etc. To all Christian people to whom these presents shall come, Greetinge. Whereas wee are graciously pleased to take into our princely consideration the worth and meritts of the bearer hereof, Captain William Cobb, and having alwayes found him to bee our loyall and faithfull subject in and upon all occasions he hath beene imployed, and knowing his judgment and experience in marittime affaires are worthy of our approbation and incoragement, It is therefore our will and gracious pleasure to imploye him as chiefe commaunder of our good ship called the Samaritane, whereof Richard Ofeild is now maister, and the good ship called the Rowbucke, whereof William

¹ A copy. The suit was against insurers of the Samaritan, who defended, upon the ground that the voyage was a man-of-war, and not a merchant, voyage.

Ayres is maister, and to range the seas all the world over, especially from Cape Bone Esperance alongst the cost of Mallindia, the island of St. Laurence, and the cost of Ethiopia, the Red Seas, the cost of Arabia Felix, with the Gulf of Persia and the East Indies, otherwise called the cost of Cormandell, with the island of Sumatria, with the Straits of Sundy, and the iland of Java Major, with the Molucco ilands, and the cost of China and Japan, with all other ilands and continents, bayes, harbors, havens, and creekes extending Northwardes and Eastwardes from the said Cape Bone Sperance, and to make purchase and prise of all such the treasures, merchandises, goods, and commodities, which to his best abillity hee shall be able to take of infidels, or any other prince, potentate, or state, not in leage and ammyty with us, beyond the line equinoctiall, notwithstanding a former commission graunted to our loyall subject Richard Ofeild, maister of the said shipe, bearinge date the 25 day of this present month, for to range and discover from Cape Codd in Virginia to Cape Florida in Nova Spania, and all other the rivers and costs of America. And if it shall please God to call unto his mercy the said Captain William Cobb, our will and pleasure is that the said Richard Ofeild, now maister of the said shipe, shall succed Captain and cheif commaunder of all such ships and vessells as shalbe in his squadron, after theire deceases such other persons as wee have nominated and apointed in our commission then to be opened. And it is our will and gracious pleasure that the cheife commaunder for the time being, togeather with the maister and the rest of the officers, shall follow the direction and instructions of our trusty and faithfull servant Endimion Porter, togeather

with Thomas Kynaston and Samuell Bennett of London, merchaunts, duringe the voyage, and to render unto them, their executors or assigns, a just and trew accompt of all such gould and jewells, goods, and marchandize, as shalbe taken or come into their costody duringe the said voyage. And the said Endimion Porter, Thomas Kynaston, and Samuell Bennett are to be accomptable to all the company for their wages or shares, either of which they shall agree on ; and if upon your home returne you misdoubt your owne force, that then by theise presents you require the aide and convoe of any of the warr shippes, or marchaunts shippes homeward bound of our relms or dominions with whome you shall happen to meette, soe that you may bee safely wafted homewards, makeing with such a reasonable agreement for their assistance and safe convoe as to your judgment shall seeme fittinge. And our will and gracious pleasure is that all such shippes as shalbe imployed in this dissigne shall ware our collers apointed for our Royall Navie. Wee doe therefore desire and intreate all our neighboringe Princes, allies, and freinds, and wee doe will and require all our loving subjects that at what tyme soever the said William Cobb, or the commaunders of the said ships shall hapen by sea or by land, to give them or any of them a freindly and lovinge meetinge, that they and every of them doe aford and offer him, the said Captain William Cobb, or the commaunder then beinge, and all others that are or shalbee under him or their commaund, all good respect, and such faire quarter as is beeffittinge his place and imployment, and as the man that wee are gratiouly pleased to intrust in affaires of this nature. And wee doe further desire and intreate all

neighboringe Princes, allies, and freinds, and doe will and require all our lovinge subjects, in and upon all occations of distresse or desastrous fortune betidinge or befallinge the said Captain William Cobb, and all others that are or shalbe under the commaund of the said Captain William Cobb, and all other that are or shalbee under his or their commaund, hee or they behaving themselves honestly and soberly to our said neighboring princes, allies, and frends, and to our said lovinge subjects, and this to bee done as our said subjects and every of them, will answer the contrary upon paine of our high indignation and displeasure. Given att our Royall Courte att Whitehall, under our hand and privy signett, the seaventh and twentieth of February, and in the tenth yeare of our raigne.

To our trusty and loyall subjects and servants Captain William Cobb, and in case of mortallity to Captain Richard Ofield, aboard the good ship called the Samaritan, and after their decease to such person or persons as wee have nominated and appointed in our commission then to be opened and published.

Wee whose names are heare under written doe certify accordinge to His Majestie's commaund that this is a trew copy of his Majestie's commission. Att Gravesend, aboard the Samaritan, this 8th of Aprill 1635.

ENDYMION PORTER.
THOMAS KYNASTON.
SAMUEL BENNETT.

1637. Sentence condemning the captain of a King's ship for non-delivery of bullion brought in her by the Spanish Ambassador; freedom of public ships from search.—*Adm. Ct. Libels* 92, No. 258.

The Victory was sent by Charles to bring to England Oñate y Villa Mediana, and the money was brought by him in her to pay the army of the Cardinal Infanta. It was forbidden by the law of Spain to carry bullion out of the country, and Stewart alleged that he would have been forcibly stopped by the authorities at Corunna, if he had not put the silver on shore. De Francke in his pleading rejoins: 'That, as well by the lawe of nations and the seas, as by the use and custome observed and kept, time beyond the memory of man, the ship or shippes of any King or royal fleete lying or arriving within the jurisdiction of any other prince or potentate in league and amity with the King, owner of such shippes or ship royall, ought not to be visited, molested, searched, or questioned, criminally or civilly, by the officers of that prince within whose jurisdiction the said ships or ship are; and the captaine or commander of any such ships or ship royall ought not to give over the priviledge of any such shippes or ship royall, especially to the damage of any third person or persons that have estate, goods, or merchandizes in any such shippes or ship royall; and by the said lawes and customes, and by the right and power of the imperiall crowne of England his Majesty, and his noble progenitors, Kings of England for times immemoriall, have had the said preminory¹ and freedome acknowledged and yeilded in all ports and havens of princes, their allies, that their royall shippes and ship of any their royall natives² have bin and ought not to be arrested, seized, entered into, searched, or visited, by any officer of such prince and ally, but have bin held free, and so acknowledged, from any such arresting, entry, visitation, and search, in as full manner as if they had bin within the ports and havens of their owne dominions'; *Adm. Ct. Libels* 92, No. 98.

The object and the effect of the suit and sentence is not quite clear. There is no doubt (see Gardiner, viii, 161) that

¹ *Sic.* Qy. preeminence.

² *Sic.* Qy. majesties.

the silver was shipped, and with the full knowledge and consent of both Kings brought to England or into the Downs, and that it was afterwards taken across the Channel to the Netherlands. But Charles tried to stop and almost succeeded in stopping it from leaving England, and perhaps the suit was collusive or instigated by Charles. Shortly after the passing of the sentence in the text, Stewart, by process of the Admiralty Court, arrested and got possession of some goods afloat which belonged to Oñate ; *Adm. Ct. Libels* 93, No. 63. There appears to have been an appeal from the sentence in the text (*P.C. Register* 50, ff. 123, 141), but no sentence of the Delegates has been found.

. . . Therefore we, Henry Marten, . . . [*in common form*] pronounce, decree, and declare, that the aforesaid Captain Walter Stewart, in the years and months pleaded, was captain and commander of his Majesty's ship the Victory ; and that in the same year and months the said John Nicholas De Francke was, and now is, the owner and proprietor of the ten chests of silver mentioned in the libel and in the schedule annexed thereto ; and that the said Captain Walter Stewart at the port called the Groyne,¹ in parts beyond the sea, took on board the said ship of his Majesty, called the Victory, the said ten chests of silver, on account of the said John Nicholas De Francke, and agreed to carry them in her to the port of Dover in England, and there to deliver and hand them to Gerard Vanteen and Edward Peeterson, the assigns of John Nicholas De Francke, according to the terms of a bill of lading signed by his hand and admitted [by him] in this suit ; and that afterwards the Victory came from the Groyne, and arrived safely at a place near Dover, with the said ten chests of silver on board ; nevertheless the said Captain Walter Stewart did not, in accordance with the bill of lading, hand or

¹ Corunna.

deliver the same either to John Nicholas De Francke or to his assigns, for his use, but disposed of them at his own will. Wherefore, we pronounce, decree, and declare, that the aforesaid Walter Stewart, Esquire, ought to be obliged and compelled to hand and deliver to the said John Nicholas De Francke, or to his said assigns, his said ten chests of money, specifically, if they are in existence, or, if not, to pay [to him or them] their true value, namely, two hundred thousand Spanish reals, or their equivalent in English money ; and by this our definitive sentence. . . we condemn him, Captain Walter Stewart, in costs . . . [*in common form*].

Arth. Ducke.

H. MARTEN.

Isaac Dorislaus.

Idcirco nos, Henricus Marten, . . . [*in common form*]
 . . . prefatum capitaneum Gualterum Steward annis et mensibus in hac causa libellatis capitaneum et prefectum navis regiae vocatae the Victorye in hac causa libellatae fuisse et esse, eisdemque anno et mensibus libellatis dictum Johannem Nicholaum De Francke dominum et proprietarium decem cistarum argenti in hac causa libellatarum et in schedula dicto libello annexa mentionatarum fuisse et esse ; Dictumque capitaneum Gualterum Steward dictas decem cistas argenti in dictam navem regiam vocatam the Victorye in portu vocato le Groyne in partibus ultramarinis in usum dicti Johannis Nicholao De Francke recepisse, easdemque decem cistas argenti in dicta nave regia vocata the Victorye abinde ad portum Dorobornie infra regnum Anglie transportare, ibique easdem quibusdam Gerardo Vanteen et Edwardo Peeterson, assignatis dicti Johannis Nicholao De Francke, juxta billam onerationis manu propria dicti capitanei Gualteri Steward subscriptam, et in hac causa confessatam, tradere et deliberare promisisse ; Posteaque dictam navem regiam vocatam the Victorye a dicto portu

le Groyne prope portum Dorobornie, unacum dictis decem cistis argenti in eadem existentibus, velificasse et salvo appulisse ; Attamen dictum capitaneum Gualterum Steward, juxta dictam billam onerationis, dictas decem cistas argenti, nec dicto Johanni Nicholao De Francke, nec dictis suis assignatis in ejus usum tradidisse vel deliberasse, sed aliter de eisdem ad libitum suum disposuisse pronunciamus, decernimus, et declaramus. Quocirca prefatum Gualterum Steward, armigerum, ad tradendum et deliberandum dicto Johanni Nicholao De Francke dictas suas decem cistas pecunie in suis speciebus, si extent, alioquin earum verum valorem, viz., ducentos mille riallos Hispanicos, vel verum valorem eorundem riallorum Hispanicorum in moneta Angliæ cogendum et compellandum fore debere pronunciamus, decernimus, et declaramus ; Eundemque capitaneum Gualterum Steward in expensis . . . [*condemnation in common form*].

Arth. Ducke.

H. MARTEN.

Isaac Dorislaus.

1637. Commission to the Lords of the Admiralty to require the judge to issue letters of marque or reprisal against the French.—*Patent Rolls* 12 Chas. I, pt. 2, No. 16, dorse.¹

Charles &c. [*in common form, to the Commissioners of the Admiralty*] Greeting. Whereas divers of our loving subjects, having susteyned sundry

¹ In pursuance of this, letters of reprisal against Spain were issued to Gregory Clement and others for the *Discovery*, to recover loss on the *Robert Bonaventure* amounting to £18,600. The document is set out in full ; *Add. MSS.* 19029, f. 7.

Upon the same Roll are similar commissions against Spain (No. 17), the United Provinces (No. 18), and all other States (No. 5, dorse) whose subjects have spoiled Englishmen.

great wrongs, losses, and damages, as well at sea in surprizing, pillaging, and taking, their shippes goods and merchandizes, as otherwise, by our deere brother, the French King, or his subjects inhabiting in sundry places under the said King's obedience; And whereas all faire courses and due proceedings, according to the formes of princes and states being in amity, have been observed and used in demaunding and seeking restitution and reparation for the said wrongs, losses and damages, yett noe restitution or satisfaction can be obteyned, whereby divers of our said subjects have beene distressed and undone; And whereas humble suit hath beene made unto us by them for letters of reprisall, they having noe other meanes by order of justice for their releif, and that they may be licensed to stay apprehend and take the shippes and goods of the said French King, or his subjects, according to their several cases, wheresoever the same shalbe found upon the seas, or in any port or ports within or without our realmes and dominions, to answeere the losses and damages by our said subjects susteyned as aforesaid, or otherwise for a full restitution to be made to them for the shippes goods and marchandizes soe taken and deteyned from them respectively, with their reasonable charges which they shalbe at for the recovery of the same. Forasmuch as we are tyed in honor and justice to afford our subjects all lawfull assistance for recovery of their said losses, and that yt hath beene usuall in such cases, where satisfaction cannot in a faire and ordinary way be obteyned, to graunt letters of marque or reprisall; Know yee therefore that we, having taken the premisses into consideration, and being willing to provide for the reparation of the wrongs,

losses, and damages, of our subjects in such particular cases onely as aforesaid, Doe by theis presents authorize and require you, our commissioners for our Admiralty, or any three or more of you for the tyme being, to give warrant to the judge of our high court of Admiralty for the tyme being to yssue out of the same court in our name commissions or letters of marque or reprisall, under our seal of Admiralty, to such of our subjects as have been or shalbe robbed, pillaged, or dampnified, at sea or in port, by the said French King, or any of his subjects, to apprehend, seize and take the ships, vessells, goods, and marchandizes, of the said French King, or any of his subjects whatsoever, or where-soever they shalbe found upon the seas, but not in any port or harbour, unlesse yt be the shippes or goods of the party that did the wronge, upon due prooffe to be first made upon oath in our said court of Admiralty and certified to you, our said commissioners, by the judge of the same court, as well of the losses and damages they or any of them have susteyned, as that they have been denied justice by the said King or his ministers, or that justice hath beene soe long and unnecessarily delayed as amounteth to a deniall of justice. Nevertheless our will and commaundment is, that the said commissions or letters of marque or reprisall to be soe graunted shalbe alsoe yssued out of our said court of Admiralty in such manner and forme, and according to such orders and instructions, as shalbe from tyme to tyme agreed upon and advised by our Privy Councell, or any sixe or more of them, in writing under their hand, to remayne in our said court of Admiralty upon record for better direction in the premisses. And theis presents shalbe unto

you, our said Commissioners, a sufficient warrant and discharge for the doing and performing of the premisses according to our intent and pleasure herein declared. In witness &c. Witnes our selfe at Westminster the seaven and twentieth day of February.

1637. Instructions for privateers against Spain issued in time of peace.—*P.C. Register* 47, f. 265.¹

4. Item, because it is not his Majestie's intention to dissolve or infringe the Articles of peace and amitie agreed on between him and his subjects and the Kinge of Spaine and his subjects, but inviolably to hold and mainteine the same according to the true meaning thereof, notwithstanding the letters of reprisall now yeilded to some of his Majestie's subjects, according to their severall cases, the same being but soe many temporarie dispensations agreeable to the Law of Nations, and necessarily affoorded from his Majestie for a supplie of that justice, which hath bine wanting in the territories and dominions of the Kinge of Spaine ; in the execution of theise commissions of reprisall noe violence shall bee

¹ There are thirteen Articles, of which two only are here printed ; the others are identical with those of 1625 printed above, p. 410. Another copy is in *Adm. Ct. Letter of Marque Bonds* 226, f. 20, where is also a warrant for the issue of letters of reprisal for Gregory Clement, who had proved losses amounting to £18,600, and the commission itself. Questions arose as to the capture of Spanish goods in an English ship, and in Hamburg ships. The former were ordered by the Council to be restored (*P.C. Register* 47, ff. 50, 76, 90).

done to the persons of the said subjects mentioned in the said commissions, but only in case of resistance, and that after in cold blood the said subjects, if hurt or wounded shall be used with all convenient offices of humanity and kindnesse.

5. Item, that within some reasonable time after any shipp or shippes shall bee taken and brought into anie port or portes of this kingdome, and before anie proceeding shall bee had or made in the high court of the Admiraltie to make the same prize, the takers shall produce at the least twoe of the company of every such prize before the judge of the Admiraltie, or his surrogate, or some such commissioners as shall bee appointed by him, to bee examined and declare who were the true proprietors of the said shipp or shippes and of the goods taken in them at the time of taking thereof, and also shall bring or cause to be brought into the Registry of the Admiralty all such bills of lading, cocketts, letters, and other documents and writings as they found in the said shipp or shippes, to the end that the parties interested in the said shippes or goodes may have recourse to the same, and make such use thereof as shall be expedient for them to doe.

1637. Sentence condemning to the captor, as good prize, a Spanish ship and cargo captured under letters of marque, but claimed by the King.—*Adm. Ct. Libels* 92, No. 174.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that our said most serene lord, Charles, by the grace of God King of England, Scotland

France, and Ireland, and the King of the [two] Spains, in the year of the Lord 1630, and in the months occurring in that year, were enemies and in hostility [to England], and for and as such were commonly reputed ; And that the aforesaid George Pentecost, in the months of March, April, and May, in the aforesaid year of the Lord 1630, or in some or one of the same months, was the master of the said ship called the Expectation of Milbrook ; and that the same ship in the years of the Lord 1627, 1628, and 1629, and in the months occurring in those years, or in some or one of those years and months, was, in pursuance of letters of reprisal lawfully obtained and granted, fitted out, armed, and sent to sea, by the said George Pentecost, Sir Samuel Rolle, and John Rice, and others associated with the said Pentecost, to subdue and capture ships and goods belonging to the King of the [two] Spains and his subjects ; And that the said ship, the Expectation, together with a ship called the Unity of Milbrook aforesaid, upon the high sea pursued and chased the said ship, the St. James of Viana, mentioned and in controversy in this suit ; And that the same ship, the St. James, together with the goods and wares laden in her at her capture, was captured and subdued by means of the joint forces of the said ships, the Expectation and the Unity, and by the means, pains, forces, intimidation, chasing, and pursuit, of each of the said ships, and of their captains, soldiers, and mariners, during and in the course of the enmity and hostility between the said Kings ; And that the said ship, the St. James, and all and singular the goods, wares, and merchandises captured in her, at the time of the capture, were goods belonging to subjects of

the said King of the [two] Spains, and were lawfully captured and taken in reprisal ; and that the value of the same ship, the St. James, and her apparel and furniture, and the goods captured in her, (according to the confession of the agent for our said lord, the King, made in the matter upon his oath), amounted to the sum of £11,100 of lawful English money ; and that the said Pentecost, and his associates, and the said ship the Expectation of Milbrook, have not, (so far as has been proved to us), since the date of the said letters of reprisal so granted to them as aforesaid, seized or captured any other ship, or any other goods belonging to the said King of the [two] Spains or his subjects, except the said ship, the Expectation ; And we pronounce, decree, and declare, in favour of the right, title, and interest of the aforesaid Sir Samuel Rolle and John Rice, and other the owners and fitters out, or victuallers, of the said ships, the Expectation and the Unity, and of their captains, soldiers, and mariners, in the said ship the St. James of Viana, and in the goods captured in her, provided that they have not hitherto renounced their right, title, and interest, in the same, and have not compounded with Sir James Bagge, Knight, for the same. Therefore, with all due reverence and obedience, we decree, that our lord the King be petitioned and humbly asked to pay, or cause to be paid, actually and in fact, to the aforesaid Sir Samuel Rolle and John Rice, and other the owners and fitters out or victuallers of the said ships, the Expectation and the Unity, at the time of the capture of the said ship, the St. James, who have not renounced their right, title, and interest in the said ship, the St. James, and in the goods captured in her, such sums

of money respectively, for their respective costs, losses, pains, labours, and expenses, as well in fitting out and arming the said ships, the Expectation and the Unity, as in capturing the said ship, the St. James, and the goods on board her, as shall by us be specified in the course of this suit; And . . . [*condemnation of the King in costs, in common form*].¹

HENRY MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . dictum serenissimum dominum nostrum, dominum Carolum, Dei gratia Angliae, Scotiae, Franciae, et Hiberniae, regem, et regem Hispaniarum, in anno Domini 1630, mensibusque in eodem anno concurrentibus, fuisse hostes et inimicos, proque talibus et ut tales communiter reputatos; Necnon predictum Georgium Pentecost, mensibus Martii, Aprilis, et Maii, anno Domini 1630^{mo} predicto, eorumve mensibus pluribus, uno, sive aliquo, fuisse magistrum navis predictae, vocatae the Expectation of Milbrooke; Eandemque navem, annis Domini 1627, 1628, et 1629, mensibusque in eisdem concurrentibus, eorumve annorum et mensium pluribus sive aliquo, fuisse per dictum Georgium Pentecost, et prefatos dominum Samuelem Rolle, militem, et Johannem Rice, aliosque socios dicti Pentecost, vigore literarum reprisaliarum legitime in ea parte concessarum et obtentorum, instructam, armatam, et ad mare emissam, ad reprizandum et capiendum naves et bona Hispaniarum regis et ejus subditorum; Dictamque navem the Expectation, una cum navi vocata the Unitie de Milbrooke predicta, dictam navem the St. James de Viana in hac lite mentionatam et controversam in et super alto mari insectasse et prosequutam fuisse; Eandemque

¹ This sentence is unusual in form, and the records throw no light upon the matters in dispute. Possibly Sir James Bagge, who was Vice-Admiral of South Cornwall, had seized the prize for the King, and the King had received the proceeds of its sale.

navem, the St. James, cum bonis et mercibus in eadem oneratis et captis, fuisse captam et subactam mediis et conjunctis viribus dictarum navium, the Expectation et the Unitie, ac mediis, industriis, viribus, et terrore, atque insectatione et prosecutione utriusque dictarum navium, et capitaneorum militumque et nautarum earundem, durante inimicitia et hostilitate inter reges predictos; Dictamque navem, the St. James, bonaque, merces, et mercimonia omnia et singula in eadem capta, tempore capture eorundem, fuisse bona subditorum regis Hispaniarum predicti, ac fuisse et esse legitime capta et reprizata; Eandemque navem, the St. James, ejusque apparatus et accessiones, ac bona in eadem capta, ad summam sive valorem undecim mille et centum librarum legalis monetae Angliae (juxta confessionem partis dicti domini nostri Regis in hac parte vigore juramenti sui factam) se extendisse; Dictumque Pentecost et socios suos, ac dictam navem the Expectation de Milbrooke nullam aliam navem, nec ulla alia bona ad dictum regem Hispaniarum, vel ejus subditos spectantia, citra datum dictarum literarum reprizaliarum eis ut prefertur concessarum, preter dictam navem the St. James de Viana, ac bona in eadem capta (quatenus nobis constare possit), apprehendisse aut cepisse; Proque jure, titulo, et interesse prefatorum domini Samuelis Rolle et Johannis Rice, ceterorumque dominorum et instructorum, sive cibariorum, et capitaneorum ac nautarum et militum dictarum navium, the Expectation et the Unitie, in dicta navi, the St. James de Viana, ac bonis in eadem captis, si juri, titulo, et interesse, suis in eisdem nondum renuntiaverint, et cum domino Jacobo Bagge, milite, pro eisdem non composuerint, pronunciamus, decernimus, et declaramus. Dictum igitur dominum nostrum Regem, (cum omni quo decet honore et obedientia) ad solvendum, seu solvi faciendum, realiter et cum effectum, prefatis domino Samueli Rolle, et Johanni Rice, ceterisque dominis et instructoribus seu cibariis et capitaneis atque nautis et militibus dictarum navium, the Expectation et the Unitie, tempore capturae dictae navis, the St. James, existentibus et deservientibus, qui juri, titulo, et interesse,

suis in dicta navi the St. James, ac bonis in eadem captis nondum renuntiarunt, tales et tantas respective summas pro eorum respective sumptibus, damnis, laboribus, industriis, et expensis, tam in instruendo et armando dictam naves, the Expectation et the Unitie, quam capiendo dictam navem, the St. James et bona in eadem onerata, quales et quantas per nos in eventu hujus litis liquidabuntur, supplicandum et humiliter rogandum fore decernimus ; Eundemque dominum nostrum Regem . . . [*condemnation in costs, in common form*].

HENRY MARTEN.

1638. Commission to Captain Fox, of the Lyon's First Whelp, to seize Dunkirker busses in reprisal for spoil done to a ship of the Earl of Pembroke and Montgomery.—*Lansdowne MSS.* 115, f. 271.¹

Whereas the Right Honorable the Earle of Northumberland, Lord High Admirall of England, hath signified unto mee that it is his Majestie's pleasure that wee make staye of some Dunkerke shippes for the satisfying of the Right Honorable the Earle of Pembroke and Montgomery for certaine fishinge busses which they have lately and unjustly taken from him :

By vertue whereof these are to praye and require you to look out yarely and dilligently, as you goe to and againe, for shippes or other vessels belonging to the aforesayd Towne, whome you are to cease and make stay of, wheresoever you shall meete them, and either to bring them

¹ Below (p. 517) is the condemnation of a prize captured under this commission.

unto mee, or to put them in safety into some of his Majesties harborowes, there to bee detayned till his Majesties pleasure bee further knowne ; speeking downe the hatches and taking care that nothing bee imbezled or purloyned out of them, nor any of the men pillaged nor abused. And when you shall make staye of any such, you are presently to give notice therof, either to the Right Honorable my Lord Admirall, or myselve ; and to bee carefull not to devulge the businesse, nor to molest nor stay any but suche as you knowe belongs to the sayd Towne of Dunkerke, and are of some vallue for the satisfyinge of the aforesaid losse. Herof you may not faile in each particuler, as you will answer the contrary at your perill. from aboard his Majestie's shippe the St Andrewe in the Downes this first of November 1638.

J. PENNINGTON.

To my very lovinge friend Captaine Robert Fox, Captaine of his Majestie's pinnace the Lyons First Whelpe.

1638. Sentence convicting the captain of H.M.S. Nicodemus of negligence in not enforcing the salute by a French ship of war.—*Adm. Ct. Libels* 94, No. 117.

. . . Therefore we, Henry Marten, . . . [*in common form*] pronounce, decree, and declare, that the aforesaid Richard Buller, in the years and months pleaded in this cause, was captain and commander of His Majesty's ship aforesaid, upon the voyage pleaded, and is [now] captain and commander of her ; and that he was negligent

in the discharge of his office. Wherefore we suspend the aforesaid Richard Buller from exercising the office of captain and commander of any ship of His Majesty, and we pronounce, decree, and declare,¹ that he be punished for his said negligence according to the pleasure of the honourable the Lord High Admiral of England. And by this our definitive sentence . . . [*in common form*] . . . we condemn him, Richard Buller, in the lawful costs of the proctor for our lord the King.

F. Rives.

H. MARTEN.

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . prefatum Richardum Buller, annis et mensibus predictis in hoc negotio articulatis, capitaneum et prefectum dictae navis regiae in viagio articulato fuisse et esse, et in dicto suo officio negligenter [se] gessisse, pronunciamus, decernimus, et declaramus. Quocirca prefatum Richardum Buller in posterum ab exercendo officio capitanei et prefecti alicujus navis regiae suspendimus, et pro dicta negligentia sua in hac causa articulata ulterius puniendum ad arbitrium honorandi domini magni Admiralli Anglie esse, pronunciamus, decernimus, et declaramus. Eundemque Richardum Buller in expensis legitimis ex parte et per partem dicti domini nostri Regis . . . per hanc nostram sententiam diffinitivam . . . condemnamus . . . [*in common form*].

F. Rives.

H. MARTEN.

¹ Words sentencing Buller to imprisonment are here struck out, and the words in the text interlined, but not, as is usual, in Marten's hand. The story is told in the pleadings; *Adm. Ct. Libels* 93, Nos. 55, 238. In 1635 the master of an English trader was fined £500 for not lowering his topsails in the presence of the fleet.

1639. Sentence condemning half the Golden Wolf and cargo captured under letters of reprisal under the Great Seal; power being reserved to proceed against the captor for unloading cargo without order of the Court.—*Adm. Ct. Libels* 96, No. 308.

. . . Therefore we, Henry Marten, . . . [*in common form*] . . . pronounce, decree, and declare, that the said ship called the Golden Wolfe, and her apparel and furniture, and the goods, things, wares, and merchandise captured in her as aforesaid, were captured and seized by virtue of letters of reprisal granted under the great seal,¹ in satisfaction of loss to the amount of £30,000; And because it has not been proved to us that the Lords of the States of the United Provinces, and their subjects, are by reason of denial of justice bound or liable to Nicholas and George Polhill, and their partners, in a larger sum than is mentioned below, we adjudge and sentence to the said Nicholas Polhill, George Polhill and their partners one half² of the aforesaid ship and goods, amounting in value to the sum of £4966, (as appears by an inventory of the ship and goods taken under authority of this court, and remaining in the hands of the registrar of the court), towards satisfaction of the aforesaid £7500 and costs; reserving power to pronounce and pass sentence against the said Polhills, and

¹ See Rymer xx, 171, for Polhill's, the captor's, letters of reprisal.

² The other half was condemned to one Henley, a joint captor with Polhill; *Adm. Ct. Libels* 97, No. 142.

their partners, in respect of the elephants' teeth, and other things, wares, and merchandise, unloaded on their behalf, and alienated, and converted to their use, (as is alleged by the afore-said Company¹), without any order or decree made in that behalf, and against the tenor of the said letters of reprisal, provided such is proved to be the fact; And we condemn the said Dutch Company trading to the West Indies in costs . . . [*in common form*].

. . . Idcirco nos, Henricus Marten, . . . [*in common form*] . . . dictam navem vocatam the Golden Wolfe, ejusque apparatus et accessiones, ac bona, res, merces, et mercimonia, in eadem nave, ut prefertur, capta vigore literarum reprizaliarum pro satisfactione damni ad summam triginta mille librarum sub magno sigillo concessarum capta et seizita fuisse et esse pronunciamus, decernimus, et declaramus; Et quia nobis non constat Dominos Status Unitarum Provinciarum, eorumque subditos, teneri aut obnoxios esse ex causa justitiae denegatae dictis Nicholao et Georgio Polhill, et sociis, in majori summa quam est inferius pronunciatum, unam medietatem dictae navis et bonorum praedictorum, extendentem ad summam quatuor mille nongentarum sexaginta sex librarum, (prout ex inventario navis et bonorum auctoritate hujus curiae capto, et penes Registrarium curiae praedictae remanente, apparet), antedictis Nicholao Polhill, Georgio Polhill, et sociis, versus satisfactionem septem mille et quingentarum librarum et expensarum

¹ The Dutch company mentioned below. The above appears to be the sense, which is confused by misplaced brackets. For further particulars of this case see *Eng. Hist. Rev.* xx, 262. There was an appeal from Marten's sentence, but it appears to have been dismissed; see *Col. Off.* 67 3A for the sentence tendered to the Delegates; the sentence which was signed and passed has not been found. The case gave the Council considerable trouble; see *P.C. Register* 49, ff. 369, 505, and elsewhere.

praedictarum,*¹ salva nobis facultate pronunciandi et sententiam ferendi contra praedictos Polhill, Polhill, et eorum socios, pro dentibus elephantinis, aliisque rebus, mercibus, et mercimoniis, ex parte dictorum Polhill et Polhill eorumque sociorum exoneratorum, alienatorum, et in eorum usum versatorum, absque ullo ordine et decreto in ea parte interposito, contra tenorem literarum reprizaliarum praedictarum, (ut pretenditur), per Societatem praedictam, si de veritate premissorum constiterit,* adjudicamus et sententiamus; Praefatamque societatem Belgicam ad Indiam occidentem negotiantem in expensis . . . [*condemnation in costs in common form*].

H. MARTEN.

1640. Extract from Instructions as to taking English seamen out of foreign ships given by the Earl of Northumberland to Sir John Penington, dated 4th Ap. 1640.—*Add. MSS.* 30221, f. 80.²

As you meet with any men of war, merchants, or other ships or vessels belonging to any foreign prince or state, either at sea, or in any road or other place where you or any of His Majesty's fleet shall happen to come, you are to send to see whether there be any of His Majesty's subjects on board them; and if any seamen, gunners, pilots, or mariners, (either English, Scotch, or Irish), shall be found on board any of them, you

¹ The words between * and * are interlined.

² This is an eighteenth-century copy; the original has not been found. Orders to take English seamen out of Dutch ships in English harbours issued on 23 Feb. 1625, and 21 Oct. 1640; see *P.C. Register*. Proclamations against serving foreign princes were issued in 1575, 1635, 1636, 1639, 1647, 1662, 1664, and 1672; and there are instances of English seamen being taken out of foreign ships in the Downs, the Channel, and at Malaga. A proclamation of 1675 declares seamen recalled, and not obeying, to be rebels.

are not only to cause such of His Majesty's subjects to be taken forth, committed, and disposed on board, or otherwise in such sort as they be forthcoming and answer their contempt to His Majesty's Proclamation in that kind, but also friendly to admonish the captains or commanders and officers in such foreign ships and vessels, that they do not receive nor entertain on board any of their ships no more of His Majesty's subjects, that His Majesty may have no cause to resent it at their hands. But you are to have an especial care that no man be permitted to go on board the ships or vessels of any of His Majesty's friends or allies, to search for such of His Majesty's subjects as aforesaid, for whose fair and honest carriage you or the captain that sends them will not answer. And you are not in any wise to suffer any violence, wrong, or interruption, to be given by any of your fleet to any of His Majesty's friends or allies behaving themselves fairly or respectfully to you and His Majesty's fleet.

1641. Sentence for restitution of a French ship captured by Dunkirkers, and, before adjudication in a Spanish court, brought to Weymouth and there sold.—*Adm. Ct. Libels* 103, No. 74.¹

. . . Therefore we, Richard Zouche, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid Charles John Vincentius,

¹ *Adm. Ct. Libels* 102, No. 84, is a similar sentence. For a sentence in favour of the purchaser of a prize that had been condemned by a Spanish court see *Selden Soc. Ser.* xi, 200.

Oliver Pottle, and Thomas Coussen, and their associates, in the year and months mentioned in the pleadings were, and now are, the lawful owners and proprietors of the ship called the St. Frances, and of her apparel, furniture, gear, and stores ; And that the same ship in the year and months aforesaid sailed from the port of Honfleur to the parts oversea called the Bank [of Newfoundland] on a fishing voyage ; And that, whilst she was sailing and making her passage thither, she was captured and surprised by some ships of war alleged to be Dunkirkers, and was brought by a ship of [. . . to the port of Weymouth] ; And that when she arrived at Weymouth some of her crew, who were still in her, were forced to leave her ; And that [the said John] Senior wrongfully took possession of her, and of her apparel, furniture, gear, guns, and stores, and that he, without, so far as has been proved before us, any lawful authority detained and still detains her ; And that, after her arrival [at Weymouth], and before she had been brought within the territory of the King of Spain or any other enemy to the King of France, and, so far as has been proved before us, before she had been adjudged to be lawful prize to her captors, and after she had been brought into a friend's country, the aforesaid Charles John Vincentius, Oliver Pottle, and Thomas Coussen, and their associates, laid claim to her, and to her apparel, furniture, and stores, and in due form of law alleged and propounded their property and interest therein, and proved the same by witnesses. Wherefore . . . [*condemnation of Senior in the value of the ship and gear and in costs in common form*].

Arth. Ducke.

RIC. ZOUCHE.

. . . Idcirco Nos, Richardus Zouche, . . . [*in common form*] . . . prefatos Charolum John Vincentium, et Oliverum Pottle, Thomam Coussen, et socios, anno et mensibus in hac parte allegatis fuisse et esse dominos et proprietarios legitimos [navis vocatae St. Frances, ejusque¹] apparatusum, accessionum, ornamentorum, et provisionum; Eandemque navem a portu de Humphlett versus partes transmarinas vocatas the Bancke viaggio quodam piscatorio [anno et mensibus predictis velificasse; Eandemque] navem versus partes predictas vela facientem, et cursum suum prosequentem, per naves quasdam bellicas, (ut pretenditur), Dunkerkanas captam et subactam fuisse, et postea per navem quandam [. . . ad portum de Weymouth adductam]; Ac tempore appulsus dictae navis, the St. Frances, in dictum portum de Weymouth quosdam ex nautis ejusdem navis in eadem nave usque dum ex eadem nave decedere coactos² et [prefatum Johannem] Senior possessionem dictae navis, ejusque apparatusum, accessionum, ornamentorum, tormentorum, et provisionum, usurpasse, et absque aliqua auctoritate legitima, (quantum nobis adhuc constare potest), detinuisse et detinere, pronunciamus, decernimus, et declaramus; Praefatosque Charolum John Vincentium et Oliverum Pottle, Thomam Coussen, eorumque socios, post appulsum ejusdem [navis in portum de Weymouth], et antequam infra territoria Regis Hispaniae, vel alicujus alterius inimici Regis Francorum adducta, aut pro preda legitima, (quantum nobis constare potest), captoribus ejusdem ad[judicata fuerat eandem navem, ejusque] apparatus, accessiones, et provisiones in amicum solum adducta reclamasse, ac proprietatem et interesse sua in eisdem in debita juris forma allegasse et proposuisse et per test[es probasse; Ideoque pro] proprietate et interesse dictorum Charoli John [Vincentii et Oliveri Pottle et Thomae Coussen], eorumque sociorum, in dicta nave, ejusque apparatus, accessionibus, ornamentis, tor-

¹ The words in square brackets are conjectural, the margin of the parchment being much frayed.

² Coacti in original.

men[tis et provisionibus pronunciamus decernimus et declaramus; Quocirca prefatum Johannem Senior ad restituendum, tradendum, et deliberandum prefatis Charolo [John Vincentio, et Olivero Pottle, et Thomae Coussen], et sociis eandem navem, ejusque apparatus et accessiones, ornamenta, tormenta, et provisiones, vel valorem eorundem, cogendum et compellendum fore . . . pronunciamus, decernimus, et declaramus . . . [*in common form, with condemnation of Senior in costs*].

Arth. Ducke.

[RIC. ZOUCHÉ.]

1641. Second decree, putting the Earl of Pembroke and Montgomery into possession of a Dunkirker seized by H.M.S. Unicorn in reprisal for the capture of his fishing buss.—*Adm. Ct. Libels* 102, No. 18.¹

In the name of God, Amen. Before you, William Sammes, doctor of laws, surrogate of the venerable and illustrious Sir Henry Marten, Knight, . . . the party of the most noble and honourable Philip, Earl of Pembroke and Montgomery and his associates, against a certain ship of Dunkirk, called the St. Andrew, and her apparel and furniture, and the goods on board her, . . . seized by Sir John Pennington, Knight, captain of his Majesty's ship, the Unicorn, for the use of the said Earl . . . and against all and singular . . . [*claiming right or title, in common*

¹ The procedure is by way of decree, and not sentence, because there was no appearance. *Adm. Ct. Libels* 93, No. 247, and *Libels* 101, Nos. 180, 281, are similar decrees in favour of Lord Pembroke, who appears to have been suing on behalf of the Royal Fishery Company. *Libels* 96, No. 396, is a similar decree in favour of James Brames. In all these cases the losses were herring busses; see *P.C. Register* 52, f. 301.

form] . . . says, alleges, and by this present writing propounds in law [as follows] : That in the aforesaid years 1636, 1637, 1638 . . . Philip, Earl of Pembroke and Montgomery, and his associates, were owners . . . of a small craft called the Salisbury, . . . and set her forth to sea on certain fishing voyages in the seas of our most serene lord the King, together with divers goods on board ; And that the said craft, whilst engaged upon her voyages, was three times, in three different voyages, forcibly and in hostile fashion captured and surprised by ships of Dunkirk, together with divers goods, things, and merchandise on board her, and was taken into the port of Dunkirk ; and no satisfaction or restitution, although it was lawfully asked for, has been, or is, made for the said craft and goods to the Earl of Pembroke and Montgomery and his associates. And the said ship, and her apparel, and the goods, things, wares, and merchandise, in her at the time of their capture and seizure by the said Dunkirkers, were worth the sum of £3000 of lawful English money, and could have been sold for so much ; And the said voyages of the Salisbury, by reason of her capture and seizure, were wholly lost and overthrown ; And by reason of the premises the honourable, the Earl of Pembroke and Montgomery, and his associates, have suffered and sustained a loss amounting to the sum or value of £1000 of lawful English money, on account of interest on their capital, over and above the loss of capital. Wherefore the aforesaid the honourable, the Earl of Pembroke and Montgomery, and his associates, petitioned our most serene lord, Charles, by the grace of God King of England, Scotland, France, and Ireland, Defender of the Faith, etc., that he

would capture and seize some ships of the town of Dunkirk, or belonging to inhabitants of Dunkirk, who are subjects of the King of Spain. And in answer to their petition our most serene lord, the King, gave special order to the commanders and captains of his ships to seize and capture any ships of the town of Dunkirk, or belonging to inhabitants of the same town, being subjects of the King of Spain which were within the jurisdiction of the Admiralty of England, in satisfaction for the losses suffered by them as aforesaid ; And the said Sir John Pennington, Knight, captain of the King's ship aforesaid, called the Unicorn, in pursuance of the aforesaid order, seized the aforesaid ship of Dunkirk called the St. Andrew, and her apparel and furniture, and the goods in her, in the English roadstead [called] the Downs, in satisfaction for the aforesaid losses, and brought them to this port of London ; And they belonged at the time of their capture and now belong to the town of Dunkirk, or to inhabitants of Dunkirk, being subjects of the King of Spain ; and the said honourable man, the Earl of Pembroke and Montgomery, and his associates, having no other hope of recovering [satisfaction for] their aforesaid losses has caused the aforesaid ship, the St. Andrew, and her apparel and furniture, and the goods captured in her as aforesaid, and brought to this port of London, to be arrested under a warrant of this court, and all and singular those who have, or pretend to have, right, title, or interest therein, to be cited, specifically and generally, to appear before you . . . [*default of appearance ; prayer for absolute possession ; all in common form*].

Basill Wood.

WILL. SAMMES.

In Dei nomine, Amen. Coram vobis Willelmo Sames, legum doctore, surrogato venerabilis et egregii viri domini Henrici Marten, militis, . . . pars prenobilis et honorandi viri Phillippi, Comitis Pembrochie [et Montgomerie, et ejus] sociorum, contra navem quandam Dunquercanam vocatam the St. Andrewe, ejusque apparatus et accessiones, ac bona in eadem . . . [per dominum] Johannem Pennington, militem, capitaneum navis regie vocate the Unicorn, et mandato serenissimi domini nostri Regis [in usum predicti comitis] Pembrochie et Montgomerie seizita . . . ac contra omnes et singulos . . . [*all in common form*] . . . dicit, allegat, et in his scriptis in jure proponit: Quod annis Domini 1636, 1637, 1638, . . . antedictus . . . Phillippus Comes Pembrochie et Montgomerie, ejusque socii, fuerunt . . . domini . . . naviculae cujusdam vocatae the Salsburye, . . . dictusque . . . Comes . . . ejusque socii . . . the Salsburye pro quibusdam viaggiis, (piscandi gratia), infra maria serenissimi domini nostri Regis una cum diversis bonis . . . in eadem onustis ad mare emis(er)unt; Quodque dicta navicula, in viaggiis predictis negotiata, per naves quasdam Dunquercanas in tribus separalibus viaggiis vi et armis et hostiliter, una cum diversis bonis, rebus, et mercimoniis, in eadem onustis, capta et intercepta, ac in portum de Dunquerque adducta fuit; Ac nulla satisfactio sive restitutio, quamvis legitime petita, pro dicta navicula et bonis antedictis Comiti Pembrochie et Montgomerie ejusque sociis facta fuit, aut adhuc est; Dictaque navis, ejusque apparatus, et bona, res, merces, et mercimonia in eadem tempore earundem capture et seizure per dictas naves Dunquercanas, summam trium millium librarum legalis monete Anglie valebant, et pro tanta pecuniarum summa divendi potuissent; Dictaque respective viagia ratione capture et seizure antedictae navis, the Salsburye, penitus amissa et diperdita fuerunt; Eaque occasione antedictus honorandus vir, Phillippus Comes Pembrochie et Montgomerie, ejusque socii, damnum ad summam sive valorem mille librarum legalis monete Anglie (ratione lucri cessantis), preter et ultra sortem principalem passi sunt et sustinuerunt. Unde antedictus

honorandus vir Phillippus Comes Pembrochie et Montgomerie, ejusque socii, pro recuperatione damnorum suorum predictorum serenissimo domino nostro Carolo, Dei gratia Anglie, Scotie, Francie, et Hibernie, Regi, fidei defensori, etc., pro interceptione et seizura quarumcunque navium oppidi Dunquerque, vel ad inhabitantes Dunquerque, subditos Regis Hispanie spectantium et pertinentium supplicati fuerunt; Super quorum supplicatione serenissimus dominus noster Rex mandatum suum speciale prefectis et capitaneis navium suarum pro interceptione et seizura quarumcunque navium oppidi Dunquerque, vel ad inhabitantes ejusdem oppidi, subditos Regis Hispanie, spectantium et pertinentium, et infra jurisdictionem Admiralitatis Anglie existentium, pro satisfactione damnorum predictorum per eos ut prefertur sustentorum, dedit; Dictusque dominus Johannes Pennington, miles, capitaneus antedictæ navis regie, vocatæ the Unicorn, vigore dicti mandati, antedictam navem Dunquercanam vocatam the St. Andrewe, ejusque apparatus et accessiones, ac bona in eadem existentia, in portu Anglie, the Downs, pro satisfactione damnorum predictorum interceptit, eademque in hunc portum London adduxit; Eademque tempore capture eorundem ad oppidum de Dunquerque, seu ad inhabitantes ejusdem, subditos Regis Hispanie pertinuerunt, et in presenti pertinent; Dictusque honorandus vir, Philippus Comes Pembrochie et Montgomerie, ejusque socii, spem aliam recuperandi damnorum suorum predictorum [*sic*] non habentes, antedictam navem, the St. Andrewe, ejusque apparatus et accessiones, ac bona in eadem, ut prefertur, capta, et in hunc portum London adducta, vigore warranti hujus curie arrestari, atque apud premissa omnes et singulos, tam in specie quam in genere, jus, titulum, aut interesse, in eisdem habentes, seu habere pretendentes ad comparandum coram vobis . . . citari fecerunt et procuraverunt . . . [*default of appearance; prayer for absolute possession; all in common form*].

Basill Woodd.

WILL SAMMES.

1643. Extract from Warwick's Instructions to his fleet, as to the salute, keeping the peace at sea, pirates, and taking English seamen out of foreign ships.—*Add. MSS.* 4106, f. 199.

After fourteen Articles relating to discipline and routine the Instructions proceed as follows :

It must be your principall care to preserve his Majestie's honor, coasts, jurisdictions, territories, and subjects, within the extent of your imployment, as much as in you lyeth, that no nation or people whatsoever intrude thereon, or injure any of them, and if you chance to meet in his Majestie's seas any shippes or fleet belonging to any foreign prince or state, you are to expect that they, (in acknowledgment of his Majestie's sovereignty there), shall perform their dutie in passinge bye, strikinge their topsailes, and taking in their flags, and if they refuse to do it, and offer to resist, you are to force them thereunto, not sufferinge in any wise any dishonour to be done to his Majestie, or derogation to his power and sovereigntie in these seas ; and if any of his Majestie's subjects shall soe much forgett their dutie as not to stryke, in passing bye his Majestie's shipp, you are to give speedie notice thereof to mee, or to the chiefe commander of your squadron, that order may be taken for his punishment.

In this your imployment you are not to permitt or suffer any man of warre to fight with each other, or man of warre with merchant, or merchant with merchant, in presence of the shipp under your command in any part of his Majestie's seas, but to doe your best to keepe

peace in those seas, for the freer and better maintenance of trade and commerce through the same, for that all men tradinge and sayleinge within those seas doe justlie take themselves to bee *in pace domini Regis*, and therefore his Majestie in honor and justice will protect them from injurie and violence.

If you shall meet with any strangers shippes, beinge men of warre, rideinge in any of his Majestie's roads, bayes, or harbours with counterfeit colours you are to apprehend them, and forthwith to give mee notice thereof, or to the cheife of your squadron, if you bee devided from mee, that they maie be brought safe into some of his Majestie's ports to answeere such their presumption and offence according to lawe.

When the shipp under your command shall apprehend any pyratts, sea rovers, or other delinquents at sea, you are to cause them to be kept in safe custody, till upon advice thereof given to mee you shall receive further order, and what goods you shall recover and take from them, or other offenders, you are to preserve and keepe in specie, takeinge care that noe parte thereof be spoyled, wasted, or imbezzled, and that the hatches and houlds of such shippes be spyked downe, that I may take course for the sending of the sayd shippes and goods into some of his Majestie's ports, according to instructions to mee given in that behalfe.

If you meete with any shipp or vessell belonging to any prince or state, either at sea or in any roade, or att the place where you shall happen to come, you are to send to see whether there bee any of his Majestie's subjects aboard itt or them; and if any seamen, gunners, pylotts, or mariners, either English, Scotch, or Irish, shalbe found on

board any of them, you are not only to cause such of his Majestie's subjects to be taken forth, committed, and disposed of otherwise in such sort as they shalbe forthcominge to answere their contempt to his Majestie's proclamation in that kinde, but also friendlie to admonish the captaine, or other principall commanders and officers in such forreigne ships or vessells that they receive or enterteine aboard any of their shippes noe more of his Majestie's subjects, that his Majestie may have noe cause to resent itt at their hands ; but you are to have an especiall care that noe man be permitted to goe aboard any shipp or vessell of any of his Majestie's freindes and allies to search for such his Majestie's subjects as aforesaid for whose faire and honest carriage you will not answere ; and you are not in any wise to suffer any violence, wronge, or interruption to be given by your shipp to any of his Majestie's freinds and allies, behaving themselves fairly and respectfully to his Majestie's fleete.

You are to use your best endeavour that none of his Majestie's subjects whatsoever, at sea or elsewhere, within command of the said shipp doe buye, sell, or barter with pyrats, searovers, or any other that shall presume there to dispose of goods before they come to their proper port ; and upon your takinge of any that doe or have done soe, you are to send mee in writinge their names and places of their abode, together with the particuler of their offences, and such examinations and proofes as you shall have against them.

If you shall observe any man of warre or other in any of his Majestie's roades, harbours, or coastes, to offer any violence by unduelie takinge out anye shippes, vessells, goodes, and merchandize, of what nation soever, or committ

any other insolence, you shall doe your best to recover the same againe from them, and reforme the abuses, either by due admonition, (or if that will not serve), by detayninge the offenders, that upon notice thereof to mee or the chiefe of your squadron, they maie bee brought to justice. Nevertheless if I bee then present, you are in that case to expect my direction in this matter, before you shall act any thinge aboute the same.

The remaining eleven Articles relate to other matters, including ships dealing with Irish rebels, or bringing soldiers from Ireland, ships resisting search. The Instructions are dated 10 April 1643.

1643. Sentence condemning a ship trading with Irish rebels as good prize.—*Adm. Ct. Libels* 105, No. 182.¹

. . . Therefore we, William Sammes, . . . [*in common form*] . . . pronounce, decree, and declare, that his most serene Majesty² has by his public edict or proclamation declared that, all and singular, those waging war in the kingdom of Ireland against him, and their maintainers, aiders, and abettors, are rebels and traitors;

¹ Nos. 41, 43, 45, 183, and 187 are similar sentences and decrees.

² Proceedings in the Court continued, for a time, to be in the name of the King; but the Court was subservient to Parliament. Even in 1641 a shipowner was ordered by Parliament to give security in £10,000 that his ship, which had been taken up for the transport of soldiers, should not be used to carry troops to France or Spain; *Adm. Ct. Acts* 40, f. 168. In this, as was the case with privateers' bonds, the Speaker of the House of Commons was the obligee. From 1643, onwards, prize sentences were filed separately from those in instance (civil) causes. They are bound in volumes, and the first volume contains little else than sentences condemning Royalist prizes.

And that the said Robert Zacharye, by the order or at the instance of parliament,¹ fitted out and armed the said ship, the George Bonaventure, to intercept or seize any goods or ships belonging to the said rebels, or to their maintainers, aiders, or abettors ; and that the said Thomas Zacharye, whilst engaged upon the aforesaid service, intercepted with his said ship, the George Bonaventure, the aforesaid German ship, and her apparel and furniture, and all the goods on board her ; and that the said German ship, and all the goods on board at the time of her capture and seizure belonged to certain rebels and traitors, or to some of their maintainers, aiders, or abettors, and was rightly and lawfully captured and seized within the ebb and flow of the tide, and within the jurisdiction of the Admiralty of England, by the said ship, the George Bonaventure, whereof the said Robert Zachary was and is the master ; and we condemn the said German ship and all the goods on board at the time of her capture, as lawful prize. Wherefore we pronounce, decree, and declare, the same German ship, and her apparel and furniture, and all the goods, things, wares, and merchandise, on board at the time of their capture and seizure, allocated, distributed, and divided, in accordance with the ordinance of parliament in that behalf made and provided ; and by this our definitive sentence, or this our final decree, which we pass and promulgate in this writing we condemn and allocate them accordingly.

WILL. SAMMES.

. . . Idcirco nos, Willelmus Sammes, . . . [*in common form*] . . . serenissimam regiam Majestatem per edic-

¹ Of 22 Jan. 1642.

tum suum publicum, sive literas suas proclamatorias, omnes et singulos in regno Hibernie bellum gerentes contra regiam suam Majestatem, vel eorum manutinentes, auxiliantes, et assistentes, rebelles et proditores publicasse pronunciamus, decernimus, et declaramus; Dictumque Robertum Zacharye pro interceptione et seizure quorumcunque bonorum, sive quarumcunque navium ad dictos rebelles sive eorum manutinentes, auxiliantes, vel assistentes, spectantium et pertinentium cum dicta nave the George Bonaventure, per mandatum sive per missionem Parliamenti, impensum et armatum fuisse et esse; Dictumque Thomam Zacharye in servicio predicto remanentem, cum dicta nave, the George Bonaventure, antedictam navem Teuthonicam, ejusque apparatus et accessiones, ac quecunque bona in eadem intercepisse; Dictamque navem Teuthonicam, ac quecunque bona in eadem tempore capture et seizure eorundem remanentia, ad quosdam rebelles et proditores, vel aliquem sive aliquos eorum manutinentes, accessarios, auxiliantes, sive assistentes, spectasse et pertinuisse, ac infra fluxum et refluxum maris et jurisdictionem Admirallitatis Anglie, per dictam navem the George Bonaventure, cujus dictus Robertus Zacharye fuit et est capitaneus, rite et legitime capta et seizita fuisse et esse, pronunciamus, decernimus, et declaramus; Eandemque navem Teuthonicam ejusque apparatus et accessiones, ac quecunque bona, res, merces, et mercimonia, in eadem tempore capture eorundem existentia, pro preda legitima condemnamus et adjudicamus. Quocirca antedictam navem Teuthonicam, ejusque apparatus et accessiones, ac quecunque bona, res, merces, et mercimonia in eadem nave tempore capture et seizure eorundem remanentia juxta ordinationem parliamenti in ea parte datam et provisam, allocanda, distribuenda, et dividenda, pronunciamus, decernimus, et declaramus, sicque condemnamus et allocamus per hanc nostram sententiam diffinitivam, sive hoc nostrum finale decretum, quam sive quod ferimus et promulgamus in hiis scriptis.

WILL. SAMMES.

1644. Sentence condemning captors to make restitution ; illegal capture.—*Adm. Ct. Libels* 106, No. 194.

1644. In 1638 a commission, under the great seal, was granted to the Earl of Warwick, to capture ships and towns in the West Indies and elsewhere, where free navigation was denied to Englishmen. It is printed in Rymer, xx, p. 186. Warwick, as is alleged, delegated his authority to one Marsham, captain of the Pennington, who issued a commission to Shapdon for the Mark, (Marcus, or Marquesse). She, in company with the Victory, which does not appear to have had any commission, captured the Bonaventure off St. Domingo, alleging that the latter was Spanish-owned, and that the King of Spain denied freedom of trade in those seas. Her owners sued the Mark and the Victory for spoil, and the following sentence was given against their owners. From the pleadings it would seem that the Bonaventure was English, and why the sentence does not order restitution of her is not clear. Perhaps she was not brought to England, or possibly her owners had regained possession of her. Other documents in the case are, *Adm. Ct. Libels* 103, Nos. 3, 57. *Libels* 108, No. 185, is a similar case. Complaints against Warwick's proceedings under this commission were made by Spain ; see Rymer, xx, p. 416.

. . . Therefore we, William Sammes, . . . [*in common form*] . . . pronounce, decree, and declare, that the aforesaid Albert Belton and John Hayes and their associates, in the years and months in that behalf pleaded, were and [now] are owners or proprietors of the said ship, the Bonaventure, and of her apparel and furniture, and were commonly known as such, and set forth the same ship to sea, upon a certain voyage, and consigned her, with goods, things, wares, merchandise, and passengers on board, to certain ports ; and that the said Robert Shapdon, and his associates, in the aforesaid ship called the Mark, alias the Marquesse, and the aforesaid

Joseph Jourdain in the said ship called the Victory, and their respective accomplices and associates, in hostile fashion assaulted and surprised the same ship, the Bonaventure, and all and singular the goods, things, wares, merchandise, and passengers on board her, whilst upon her voyage upon the high sea, and within the jurisdiction of the Admiralty of England, and that they seized and carried off both her and the goods on board her, and deprived the said Albert Belton and John Hayes and their associates of the said goods, wares, and merchandise, and converted and applied the said ship and goods to their own use; and [we declare] that the freight for the hire of the said ship is due to her aforesaid owners and proprietors, and that the said Thomas Peade and John Worsham have put in bail to answer this action, as regards the Victory, and have taken upon themselves to defend the action, as regards her. Wherefore we pronounce, decree, and declare that the aforesaid Robert Shapdon, Thomas Peade, and John Worsham, ought of right to be obliged and required to make restitution to the said Albert Belton and John Hayes, and their associates, of the apparel, furniture, and guns of the said ship, the Bonaventure, and of whatsoever freight is due for the carriage of goods captured in the same ship. Therefore we condemn the same Robert Shapdon, Thomas Peade, and John Worsham, in the value of the apparel, furniture, and guns of the said ship, and in her freight, to be ascertained in working out this our sentence, and also in costs . . . [*in common form*].

WILL. SAMMES.

. . . Idcirco nos, Willelmus Sammes, . . . [*in common form*] . . . prefatum Albertum Belton et Johannem

Hayes, eorumque socios, annis et mensibus in hac parte libellatis fuisse ac esse dominos sive proprietarios dicte navis the Bonaventure, ejusque apparatus et accessionum, proque talibus communiter reputatos, eandemque super viagio quodam maritimo ad mare emisisse, et ad nonnullos portus, bonis, rebus, mercibus, mercimoniis, et viatoribus, onustam destinasse; Dictosque Robertum Shapdon, ejusque socios, in nave antedicta vocata the Mark, alias the Marquesse, prefatumque Josephum Jourdain, ejusque socios, in nave antedicta, vocata the Victory, eorumque respective complices et consocios, eandem navem the Bonadventure, omniaque et singula bona, res, merces, mercimonia, et viatores, in se, ut prefertur, habentem, in cursu suo navali super alto mari, ac infra jurisdictionem Admirallitatis Anglie more hostili aggressos esse, ac intercepisse, eandemque ac eadem eripuisse et sustulisse, dictosque Albertum Belton et Johannem Hayes, eorumque socios, absque aliqua legitima authoritate, (quantum nobis constare poterit), eadem nave, eisdemque respective bonis, mercibus [et], mercimoniis¹ deprivasse, eandemque et eadem in usum suum proprium convertisse et applicuisse, naulumque pro servitio dicte navis prestito prefatis dominis et proprietariis esse debitum, prefatos Thomam Peade et Johannem Worsham cautionem de respondendo actioni hujusmodi quatenus concernit navem the Victory interposuisse, ac defensionem hujus cause quoad dictam navem suscepisse. Quocirca prefatos Robertum Shapdon, Thomam Peade, et Johannem Worsham, ad restituendum prefatis Alberto Belton et Johanni Hayes, eorumque sociis dicte navis, the Bonaventure, apparatus, et accessiones, et tormenta quecumque ad dictam navem spectant, si extent, alioquin verum valorem eorundem, et quodcunque naulum pro transportatione bonorum in dicta nave captorum, in hac parte debitum cogi et compelli de jure debere pronunciamus, decernimus, et declaramus; Eisdem igitur Robertum Shapdon, Thomam Peade, et Johannem Worsham in valore apparatum accessionum

¹ ' Viatoribus ' struck out ; ' et ' is misplaced.

et tormentorum dicte navis, ac nauli in executione hujus nostre sententie liquidandi, ac in expensis . . . condemnamus . . . [*condemnation in common form*].

WILL. SAMMES.

1644. Commission from the Earl of Warwick, Lord High Admiral of England and the Plantations,¹ to Captain George Richardson for the Mary Bonadventure to capture Irish and other rebel ships.—
*Adm. Court.*²

Robert, Earl of Warwicke, Baron of Leeze, Lord High Admirall of England, Ireland and Wales and the Dominions and Isles of the same, of the Towne of Callis and the Marches thereof, of Normandie, Gascoigne, and Gwines, and Captain Generall of His Majesties Seas and Navie Royall, Lieutennant of the Counties of Essex and Norfolke, Chiefe Commander and Captaine Generall of the Islands of Guernzey and Jersey and the depending Islands adjacent, Governour in Chiefe and Lord High Admiral of all the Islands and English Plantations within the bounds and uppon the coasts of America, and one of His Majesties Most honourable Privie Councell, to my very loving freiend Captain George Richardson, captaine of the shipp called the Mary Bonaventure, now bound on a voyage for Ginny :

By vertue of an Ordinaunce of Parliament, bearing date the 7th of December last, Whereby I am ordained Lord High Admirall of England,

¹ This is the first mention that has been found of the Lord High Admiral as Admiral of the Plantations.

² The document is from the rearranged 'Miscellaneous Bundles of the Admiralty Court.'

Ireland and Wales, I doe authorize you to seize and take all shippes and vessels that you shall meete with, either outward or homeward bound, belonging to the Rebells of Ireland, or any shipp belonging to any port of the Kingdom of England that is at this present in hostility against the Parliament, according to an Ordinance of Parliament to that effect bearing date the 30th of November last ; Provided always that you doe, uppon receipt of this my commission, enter into bonds of two thousand pounds to give a just and true Inventory, at your retorne home to the port of London, in the court of Admiraltie, before the judge there, of all the goods and cargazone of the shippes and vessels that you shall soe surprize and take ; Chargeing and commanding the officers and company in the said shipp to be obedient unto you by ayding and assisting you in taking of any such shipp or vessel. And for soe doing this shall bee your and their sufficient warrant. Given under my hand and seale the 5th Jan^y 1643.

RBT. WARWICK.

1647. Arrest and condemnation of an English ship to recompense another seized by the Bey of Algiers in reprisal for the spoil of an Algerine by the former.

In 1647 two English ships, the Talbot and the Charles, were at Albuzeme (Albozine, in original), off the Riffe coast of Barbary. The Charles, although there was peace at the time between England and Algiers, seized a ship of Algiers. Thereupon the governor of Albuzeme arrested some seamen of the Talbot, and kept them in prison until they were ransomed ; he also prevented the Talbot from shipping her cargo, for the freight of which she was to receive £700. Eventually she had to sail without it, and her owners

paid £165 to redeem their crew from captivity. Altogether they lost £1000, and on the return of the *Charles* to England they arrested her; subsequently, by a first decree of the Admiralty Court, they were put into possession. The decree (in Latin) is long and tautologous, and nothing would be gained by printing it in full. It will be found in *Adm. Court, Libels* 108, No. 142. With this may be compared the arrest of the *St. Clara*, belonging to a Spanish fleet, by one of the ships of which the *Elizabeth*, with passengers for Virginia, was, in 1637, captured off the American coast; *Adm. Court, Libels* 107, No. 117.

1648. Commission from Prince Charles for the *Dover, Pinke*.—*Adm. Court*.¹

Charles, Prince of Great Brittain, Duke of Cornwell and Albanie, highest Captaine Generall of all his Majesties forces, both by sea and land, within the Kingdome of England and Dominion of Wales, To our trustie and well beloved George Pattison, Greeting. Know y^e that we, reposing speciall trust and confidence in your courage, abilitie, and experience in sea services, and fidelity, and good affection to his Majestie and to us, Doe by these Presents appoint authorise and constitute you to be captaine of his Majesties vessell, the *Dover, Pinke*. Giving you hereby power and authoritye to command the said *Pinke*, and all officers mates and souldiers and mariners belonging to the same, And to doe and execute all such other things and duties as belong to the office of captaine of a shipp, or as have been usually exercised and practised by the captaines of shippes in his Majestie's service. And

¹ No further reference can be given because of rearrangement. *Adm. Ct. Interrogs.* 15, No. 221, is a commission dated 5th April, 1649, from Rupert to Capt. Rice Jeffreys to command the *Thomas* for the King.

wee hereby charge and command all the inferior officers, their mates, and all the souldiers and mariners in the said Pinke, to obey [you] and observe in all things as their captaine, and to receyve, execute, and fulfill readily, all your orders and commands in all things tending to the good and advancement of his Majestie's service, according to the usage of his Majestie's shippes and the custom of the sea. And in the execution of this commission you are to obey and observe such orders as you shall from tyme to tyme receyve from our right deare and right and intirely beloved cousin Prince Rupert. Given under our hande and seale att the Hagh the 25th day of November in the 24th yeare of the reigne of the King our Royall Father.

CHARLES P.

1648. Commission for the John Baptist from the Confederated Catholics of Ireland.¹

By the Supream Councill of the Confederat Catholicks of Ireland.

To all men to whome thes presents shall come. Wee, the Supreme Councill of the Confederate Catholiques of this Realme of Ireland, send Greeting. Know ye that wee, having taken in Consideration the great and necessarie use that wee have of shippes of warre for the defence of the Coasts of this Reelme, and advancement and furtherance of free commerce with forreigne nations, and for the opposing and taking of his Majestie's enemies, who daily hender and annoy his Majestie's good subjects of this Kingdome by

¹ As to the reference, see last note.

sea, and stopp the free trade within this Realme and abroad, have therefore constituted and appointed, And do hereby ordaine constitute and appointe, our well beloved friend, Captaine Lawrence Barron, having received good testimony of his sufficiencie and integritie, to be captaine of the shipp called the John Baptist, burthen fifty tonns or thereabouts ; hereby giving and graunting unto the said Captaine full and absolute power, commission, and authoritie, to furnish the said shipp with all necessaries fitt for sea and warr, and with the same to cross the seas, and take hinder and prejudice all such as he shall find or meete of his Majesties enemies whatsoever, either by sea or land, by what means soever ; and the said shipping or goods to sett to sale and dispose of as lawfull prizes and open enemies' goods ; Saving to his Majestie and his lawfull officers, and to all other person and persons bodyes politique and corporate, all rights, perquisitts, and duties, due or usually answered out of all prizes. And we do hereby command all officers of all ports harbours and havens within our jurisdiction throughout this Realme to admitt the said Captaine . . . and his company, shipp and goods, from tyme to tyme, to passe and repasse, come and go, without molestation or trouble ; and that all commanders of our forts, and all other officers, and his Majestie's loving subjects, to be ayding and assisting unto him in the execution and furtherance of the premisses whatsoever, and as often as occasion shall require ; And lastly we pray all forreigne princes states and potentates to protect defend assist and favour the said Captaine, his shipp and goods, when and as often as he or they shall come into their respective coasts or Harbours. This our

commission to continue during our pleasure.
Given at Kilkenny the 26th day of February
Anno domini one thousand six hundred forty and
seven.

The signatures of Jno. Tuame, Ed. Limericen', Fran. Aladens', Henrie Emeth, R. Bellmy, Gerald Fennell, and Robert Devereux are appended ; and there is an endorsement to the effect that security for the captain's good behaviour had been entered into 'in the Admyralty of Ireland.'

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